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THE ATLANTIC AND
EMANCIPATION

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*PROBLEMS OF IMPERIAL
TRUSTEESHIP*

**THE ATLANTIC AND
EMANCIPATION**

BY
THE HON. H. A. WYNDHAM

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PREFACE

THIS volume of the series entitled 'Problems of Imperial Trusteeship', issued under the auspices of the Royal Institute of International Affairs, is the continuation of the previous volume, *The Atlantic and Slavery*, which appeared in May 1935. The latter carried its subject down to the end of the eighteenth century, while the transatlantic slave-trade was flourishing. The present volume deals with conditions after its abolition and down to the present day. It describes the evolution of French and British policy on the west coast of Africa. It compares the history of the settlement of liberated Africans at Sierra Leone with that of the Republic of Liberia. It gives some account of the latter-day West Indies. It surveys the Negro problem in the United States of America and contrasts the circumstances in which it has developed with those of the Union of South Africa. It reviews the growth of the Native problem in the latter country from 1652 until 1935.

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ASTOR
Chairman of the Council.

July 5th, 1937.

CONTENTS

PART I

WEST AFRICA

| | | | | | | | |
|------------------------------------|---|---|---|---|---|---|----|
| I. SIERRA LEONE | . | . | . | . | . | . | 3 |
| II. THE TREATY SYSTEM | . | . | . | . | . | . | 14 |
| 1. <i>Sierra Leone</i> | . | . | . | . | . | . | 14 |
| 2. <i>The Gold Coast</i> | . | . | . | . | . | . | 19 |
| III. THE PROTECTORATES AND NIGERIA | . | . | . | . | . | . | 27 |
| 1. <i>Sierra Leone</i> | . | . | . | . | . | . | 27 |
| 2. <i>The Gold Coast</i> | . | . | . | . | . | . | 30 |
| 3. <i>Nigeria</i> | . | . | . | . | . | . | 39 |
| IV. SENEGAL | . | . | . | . | . | . | 43 |
| 1. <i>The Gum Trade</i> | . | . | . | . | . | . | 43 |
| 2. <i>The Protectorates</i> | . | . | . | . | . | . | 50 |
| V. FRENCH POLICY | . | . | . | . | . | . | 58 |
| VI. BRITISH POLICY | . | . | . | . | . | . | 67 |

PART II

THE WEST INDIES

| | | | | | | | |
|-----------------|---|---|---|---|---|---|-----|
| I. THE FRENCH | . | . | . | . | . | . | 79 |
| II. THE FRENCH | . | . | . | . | . | . | 87 |
| III. THE FRENCH | . | . | . | . | . | . | 95 |
| IV. THE BRITISH | . | . | . | . | . | . | 103 |
| V. THE BRITISH | . | . | . | . | . | . | 114 |
| VI. THE BRITISH | . | . | . | . | . | . | 125 |

PART III

THE UNITED STATES

| | | | | | | | |
|---------------------|---|---|---|---|---|---|-----|
| I. SLAVERY | . | . | . | . | . | . | 137 |
| II. EMANCIPATION | . | . | . | . | . | . | 147 |
| III. THE FREE NEGRO | . | . | . | . | . | . | 159 |
| IV. LIBERIA | . | . | . | . | . | . | 177 |

| <i>PART IV</i> | | | | | |
|-------------------------------------|---|---|---|--------|-----|
| SOUTH AFRICA | | | | | |
| I. THE CAPE. 1652-1853 | . | . | . | . | 197 |
| II. THE EASTERN BORDER. 1795-1856 | . | . | . | . | 209 |
| III. THE NORTHERN BORDER. 1835-1854 | . | . | . | . | 231 |
| IV. DISUNION. 1854-1909 | . | . | . | . | 249 |
| 1. <i>Cape Colony</i> | . | . | . | . | 249 |
| 2. <i>Natal</i> | . | . | . | . | 259 |
| 3. <i>The Transvaal</i> | . | . | . | . | 261 |
| V. UNION | . | . | . | . | 268 |
| INDEX | . | . | . | . | 291 |
| MAP OF SOUTH-EAST AFRICA | . | . | . | at end | |

INTRODUCTION

THE previous volume of this series, *The Atlantic and Slavery*, examined some of the conditions existing down to the end of the eighteenth century in Africa, America, and the West Indies as the result of the slave-trade. It described the relations between Europeans and Africans on the west coast of Africa during the continuance of that traffic, the contemporary trading customs and conventions and their influence on the Africans who were concerned with them. It then crossed the Atlantic and reviewed some of the social, political, and economic effects of the system in the slave immigrant colonies. This book follows a similar geographical arrangement, but, as its name indicates, it refers to the period when the slave-trade and slavery were abolished and to the conditions that developed under freedom. Its field, except in one respect, is more restricted than was that of *The Atlantic and Slavery*. It does not take in Central and Southern America, although the previous volume contained a statement that the relations between the Portuguese and Indians of the east coast of Brazil would be alluded to in it.¹ This has been omitted as a needless complication. Neither does this volume contain any reference to Portuguese or Spanish possessions elsewhere. Part I covers only British and French dependencies in West Africa. Part II is confined to French Martinique and Guadeloupe, and to British Jamaica, Barbados and Trinidad in the West Indies. Part III deals with the Negro problem in the United States of America and with the Republic of Liberia. In Part IV new ground is opened up by bringing in South Africa. As it has not been mentioned before, its history is traced from 1652 when the Dutch first occupied the Cape Peninsula. The subsequent experiences of the settlers endowed them with traditions and outlooks that governed their response to

¹ *The Atlantic and Slavery*, p. 135.

nineteenth-century movements and that are still of great importance in South African affairs.

The reactions of opinion to the humanitarian and revolutionary movements of the end of the eighteenth century influenced the policies of colonizing governments, but did not detach them from their past. The French Empire, for example, was always politically more centralized than the British. Colonial legislatures such as existed in the latter were unknown to it, and French colonists, like their compatriots in France, enjoyed no right to be consulted on their governance. After the Revolution created that right, it was exercised by the centralizing method of sending representatives to the parliament in Paris and not, as in the British Empire, by delegating legislative authority to the colonies. Nor did the revolutionary principle of the equality of all men diminish the centralizing tendency, for it proceeded on the assumption that the best possible form that equality could take would be to assimilate all to the same system. The British, on the other hand, were more concerned with liberty. The humanitarians were alarmed by the excesses of the Revolution, the utilitarians were impatient of its catch-words. Instead, a principle of freedom was evolved which, while accepting that 'the circumstances influencing sensibility' were the same for all humanity, believed in leaving them to operate with as little interference as possible. The result was necessarily also assimilative because the British legal and political systems appeared to be the most effective instruments to these ends.¹ As such they were applied, for example, to Cape Colony without regard to differences of colour; but not with centralizing intent. The Americans, in their independence of Britain, were more inclined to the French theory of equality, but confined it to those elect who were qualified to enter into a mutual contract securing the enjoyment of their natural and inalienable rights. From it the Negroes were excluded.

¹ For examples of their application in Ceylon and in Java, see H. A. Wyndham, *Native Education* (Oxford, 1933) chapters iv and vii (c).

The four areas in question differ also in their conditions. West Africa had been the main source of supply of the slaves for America and the West Indies, and, as pointed out in the previous volume, this meant segregating European representatives in forts and trading stations on the coast. The same arrangement continued after the slave trade had been abolished. Up to the time of the ill-fated Niger expedition, the British refused to consider any extension of their responsibilities in West Africa and were content with attempting to induce civilization indirectly, by encouraging trade and by founding coastal colonies of freed slaves. Neither of these expedients were successful. Only one liberated African settlement was formed at Sierra Leone. Its early history is given in Part I, Chapter I. It became so embarrassed owing to the settlers' political aspirations, that its founders were glad to hand it over to the Crown to become a separate coastal dependency whose relations with the interior sovereign Native states were governed by treaties leaving the British Government free of any commitments. An exception to this principle of aloofness was the 'Model' treaty taken out by the leaders of the Niger expedition in 1841. It allowed for a possible extension of British sovereignty over Native States co-operating in suppressing slavery and the slave-trade. But the complete failure of the expedition was the end of the model treaty, and the Government reverted to its former attitude.

From this it was eventually driven by conditions on the Gold Coast. It was obliged to interfere in the periodic hostilities between the Ashantis and the Fantis. Nevertheless, when it unwillingly assumed a protectorate over the latter, the new position had still at first to be based on treaties; and not until after the sixth Ashanti war, in 1878, was authority asserted by proclamation. A few years later the Berlin Act of 1885 bound the powers interested in Africa to suppress slavery and the slave-trade everywhere, and the Brussels Act of 1890 asserted that active administrative intervention would be the most effective means to that end. This declaration marked the end

of the old treaty system. In its place, numberless agreements were made with chiefs acquiring sovereignty over the Native territories covered by them. The new procedure was adopted by all powers interested in acquiring rights in Africa. It was used in the founding of Nigeria. The above matters are dealt with in Part I, Chapters II and III.

The history of the French in Senegal was similar. Their colony at first consisted of only St. Louis and Goree, and they entered into treaties with the neighbouring chiefs. They tried to encourage civilization by various direct experiments in development, which failed as completely as did the more indirect endeavours of the British. Not until General Faidherbe became Governor in 1856 were the foundations laid of federated French West Africa. Faidherbe also was careful to make good his advances by treaties; but the edifice he built up through them was more complicated than was the British. It consisted of three grades of protectorate territory, each grade representing a step nearer to the assimilation and centralization which are the underlying principles of French imperialism. So also the three grades of 'Communes Mixtes', which provide for a gradual introduction of municipal local government in the more progressive and Europeanized centres, are another example of the same procedure of advance towards the same end.

The two imperial principles of assimilation and centralization account for the special political privileges and status enjoyed by the African inhabitants of St. Louis. Their history was brought down to the end of the eighteenth century in the previous volume. It is continued in the present one. It has culminated in their elevation to full French citizenship without any question of their qualifications. They, and other African citizens of the four municipalities or 'Communes de plein exercice' of Senegal, now form a special class of hereditary voters returning a member of the French parliament and having a majority on the local 'Conseil Colonial'. The experiment of their precipitate advance to these privileges has

not been repeated elsewhere in French West Africa. Citizenship can now be acquired only by fulfilling certain conditions, and all who are not 'citizens' are 'subjects' governed according to a 'politique de race'; that is to say as far as possible within the framework of their African institutions. At the same time this new conception is subject to a 'politique d'élite', meaning that the Africans employed in prosecuting it must co-operate in a 'politique d'association' which has looked forward since it was initiated by Faidherbe to converting West Africa into a French-speaking territory of an Empire centralized in France. Part I, Chapters IV and V describe these French developments.

The British conception is different. In Part I, Chapter III some account is given of early British experiments in introducing representative institutions into West Africa. But their object was to encourage 'habits of self-reliance' among Africans rather than to train them to fit into a planned and organized imperial structure. The contrast is further illustrated in Part I, Chapter VI. It is perhaps most noticeable in the respective attitudes of the two policies to Africans whose education and European proclivities separate them from their unchanged tribal compatriots.¹ To France, aiming at the eventual assimilation of West Africa to her language and culture, such Africans are in the advanced guard of the movement. To Britain, looking forward to the evolution of a distinctive African polity, they are the negation of it.

While one can speculate at large on what may emerge from the French and British schools of West African policy, the future of the West Indian islands, which are the subject of Part II, is less uncertain. No one can foretell what West Africa may grow into. No one can imagine the West Indies being very different from what they are. They are, however, of interest as communities built up on Negro slavery and obliged to adjust themselves as best they could to its abolition. Moreover, the fact that the French West Indian islands formed part of the Empire

¹ Cf. *Native Education*, p. 225.

in the eighteenth century affords an opportunity of examining the attitude of the revolutionary assemblies in Paris on the colour problem. Their actions are related in Part II, Chapter I. Chapters II and III give an outline of French policy down to the present day. The islands of Martinique and Guadeloupe are better fields for its study during the whole of the nineteenth century than is either Senegal or Indo-China.¹ It is therefore treated more fully in this part than in the first. It again brings out the contrast between the French and British Empires, for while the French islands are represented in the Paris parliament, Jamaica and Barbados had independent local legislatures in the eighteenth century. Some of their enactments under slavery were alluded to in the previous volume. In this one we can observe their working under emancipation. Trinidad, on the other hand, belonged to Spain in the eighteenth century and was therefore subject to a centralized control resembling the French. Its legislative status was unchanged after its transfer to Great Britain. Hence the British Government was here unhampered by a local legislature in carrying out its policy. Part II, Chapters IV–VI are devoted to these three islands.

The Southern states of North America, which are dealt with in Part III, were also built up on Negro slavery and were required to adjust themselves to emancipation. But with them the process was complicated by their close connexion with the free-labour North, and was accompanied by a civil war, followed by a period of reconstruction, leaving legacies of bitterness unknown in the West Indies. Time has since mollified them, but it is perhaps not impertinent to suggest that the change has been facilitated by an equivalent slackening of the North's former advocacy of the Negro's cause. On the other hand, it is in the United States, and especially in the cities, that Negroes have been able to prove their capacity for advancement more effectively than elsewhere.

The inclusion of a chapter on Liberia in this part requires some explanation. Its insertion in the West African

¹ *Native Education*, caps. xv–xvii.

part, where it more rightly belongs and where it would be in closer proximity to the chapters on Sierra Leone, was inconvenient as interrupting the comparison between French and British methods. On the other hand Liberia is an offshoot of the United States. Its constitution is modelled on theirs, and it looks to them for protection and guidance. Hence it is not entirely out of place in Part III.

South Africa, the subject of Part IV, differs from West Africa in being suitable for white settlement and in not having been a source of supply of slaves. Its first settlers soon demanded slaves but did not recruit them from the local Hottentots and Bushmen who, like the American Indians, were unsuited to the purpose. Instead they imported them and so converted themselves into a community resembling the slave colonies of North America in being dependent upon imported slave labour and in being in occupation of a country independently of its aboriginal inhabitants. The latter, like the Indians, were unable to withstand the pressure of white settlement and their few descendants, with those of the slaves, now form the special group, the Cape Coloured, in the same way as do the Negroes of the United States. But while the United States broke away from the British Crown, Cape Colony early in the nineteenth century became subject to that institution, and its action in introducing equality irrespective of colour, described in Part IV, Chapter I, left an impression on the Colony that was undimmed until after Union.

While this matter was being decided within Cape Colony, one of equal import was being fought out on its eastern border. South Africa resembled America in the wide field it afforded for white expansion and settlement. But unlike America this large and inviting territory was irregularly occupied by Bantu, who survived in numbers greatly exceeding the Whites. The colonists first came into contact with them on the Fish river in the middle of the eighteenth century and a succession of border wars followed, which, like the series of Ashanti wars in the

Gold Coast, obliged the British Government to intervene. It endeavoured to settle the issue on international principles, that is to say by treaties and other devices erecting barriers between the two combatants. They are the subject of Part IV, Chapter II. They and the Cape colour equality were the prime causes of the Great Trek, which carried northwards the opposite conception of inequality accompanied by a consequent separatism.

The Great Trek is the central event of South African history. It consecrated the disunion of South Africa just as the Civil War would have dismembered the United States of America had the Confederates won. The federalist victory could have been anticipated in South Africa only by the British Government. Its failure to play the part, after it had embarked upon establishing a colour-blind equality in Cape Colony, was the equivalent of a South African federalist defeat. The resulting situation is depicted in Part IV, Chapters III and IV. Its solution was possible only in Union. After the Boer War of 1899-1902 had restored the British Government to the position of federal authority, the several South African states at last perceived this truth, and Union followed. Some of the compromises between Southern equality and Northern inequality by which it was achieved are included in Part IV, Chapter V. So also are some of the episodes of its subsequent history. They demonstrate that with Union the policy that was borne northwards in the Great Trek has returned southwards on such matters as Native franchise, land-ownership, and labour and is overmastering its southern adversary. On the other hand, southern policy in relation to the management of Native territories and reserves is being accepted in the north.

PART I
WEST AFRICA

CHAPTER I

SIERRA LEONE

HERE was a lull in the discovery of the world in the seventeenth and eighteenth centuries. The colonizing powers were too busy fighting amongst themselves over the available territories, settling them and exploiting them with slave labour, to pay attention to so speculative a business. But in the middle of the eighteenth century a more scientific and altruistic spirit began to be manifest. To Charles de Brosses, writing in 1756, it seemed that to solve the geographical mysteries of the Pacific Ocean would bring more credit to a king than any number of victories with their train of misery and suffering. Combining glory with utility how could it compare with the conquest of some petty state, or the battering of two or three fortresses with cannon? So also John Callender, in 1766, in the spirit of the Evangelical revival, appealed to his countrymen to remember that 'these distant and extended regions are peopled with myriads of our fellow creatures, to whom our holy religion is utterly unknown'. Captain Cook was financed by the Admiralty and the Royal Society, not by a commercial company, and he sailed to explore the Pacific and to observe the Transit of Venus. His instructions of 1768 were based on those given to Drake two centuries before, so little progress had been made in the meantime. Similarly, at the end of the eighteenth century the Association for Promoting the Discovery of the Interior Parts of Africa pointed out that no additional information about the Senegal and Gambia rivers had been collected since the days of André Brue and Francis Moore. It embarked on an organized campaign of exploration in order to remedy the defect, sending out Ledyard, Lucas, Houghton, Mungo Park and Horneman. Its objects were not commercial but scientific. It had in view not its own enrichment, but the interests of philosophy and of the nation. And so the *Annual*

Register for the year 1800, in reviewing the century which had just closed, could claim that, compared with former times, the new period might be called 'the age of humanity'.

'A new and nobler passion than the thirst of either gold or conquest was enlisted in the service of navigation and discovery. Travels and voyages were undertaken with no other view than that of ascertaining the real figure of, and perfecting the knowledge of the globe; the study and nature of man; the alleviation of human miseries and the multiplication of human comforts and employments, even among the most remote and barbarous tribes often not only ungrateful but jealous and hostile to their disinterested benefactors.'

What was the cause of this happy change? In the opinion of the writer it was not to be found in the 'progressive effects of moral disquisitions and lectures', nor in 'preaching trimmed up by artifices of composition taught by professors of rhetoric', but in 'the progressive intercourse of men with men and minds with minds', and in the 'influence of navigation, commerce, arts and industries'. Thus it seemed that the white division of humanity was now moving forward in confidence that it had at last discovered the true secret of progress. The hampering conventions and formularies of the past, the 'artificial graces' and affectations, were being discarded in a wider and freer humanity.¹

Rousseau conceived this picture of a world struggling to be free as proving that man had degenerated from an original state of natural blessedness and had been corrupted by the sciences and arts which he had evolved out of his own vices.

The result was that:

'il règne dans nos mœurs une vile et trompeuse uniformité, et tous les esprits semblent avoir été jetés dans une même moule: sans cesse la politesse exige, la bienséance ordonne; sans cesse on suit des

¹ C. de Brosses, *Histoire des Navigations aux Terres Australes*, i. 4-5; *Cambridge History of the British Empire*, vii, Part I, Australia, pp. 44-5; *Proclamation of the Association*, i. 6-7, 204, 207; *Annual Register*, 1800, pp. 222, 235.

usages, jamais son propre génie. On n'ose plus paraître ce qu'on est; et dans cette contrainte perpétuelle, les hommes qui forment ce troupeau qu'on appelle société, placés dans les mêmes circonstances, feront tous les mêmes choses si des motifs plus puissants ne les détournent.'

The state of nature which this deadening uniformity had replaced was not, as Hobbes had depicted it, 'a condition of war, and such a war as is of every man against every-man', but one in which wants being few and easily met their satisfaction prejudiced no one. Peace, therefore, rather than war was its normal condition. But so soon as one man required the help of another then equality vanished, and such evils as slavery arose. No man can possess a natural authority over another. From these premisses a dogma of man's natural and indefeasible right to liberty and equality was deduced.¹

The English Evangelicals were alarmed by this inference. What interested them was the equality of all men in the sight of God. Wilberforce, for example, when dining with Pitt in 1785, reminded himself continually that 'pompous Thurlow and elegant Carmarthen would soon appear in the same row with the poor fellow who waited behind their chairs'. The campaign he conducted through the British Parliament was against the slave-trade as a moral enormity, not as an offence against an ideal state of society. 'Mad-headed professors of liberty and equality' were dangers to the cause because they diverted attention from the moral issue, which was unimpugnable, to a doctrine which was highly controversial and inflammatory. Zachary Macaulay sarcastically described it as 'the modern refined system of politics' which inspired a young Negro, whom he had rescued from slavery and employed in Sierra Leone, to decamp with the silver spoons. There was always a risk that advantage would be taken of its revolutionary implications 'to represent the friends of abolition as levellers'. Wilberforce was embarrassed by receiving the honour of citizenship from

¹ Rousseau, *Oeuvres*, iv. 9, 21-2, 242, 268-9; Hobbes, *Leviathan*, Part I, cap. xiii.

the National Convention in France; and to counteract the effect attended a meeting in London in support of the French Roman Catholic clergy. He was not attracted by 'La Religion, l'Humanité, la Liberté', which was the slogan of l'Abbé Grégoire, one of the champions of the rights of the free Coloured in the National Assembly in Paris. The excesses of the Revolution and the horrors of the slave revolt in San Domingo provided his opponents with their most effective weapon. 'People here', he wrote in 1792, 'are all panic-struck with the transactions in San Domingo'; which, indeed, contributed to delay abolition for more than a decade. The public conscience was not perturbed by the existence of slavery, but by the way the trade was conducted, and by the treatment of the field slaves in the West Indies. On the other hand the Quakers were not so averse to an appeal to natural rights. But their interpretation of them was a Christian brotherhood, which, while not incompatible with political, economic, and social inequalities, transcended them.¹

The Utilitarians were even more impatient than were the Evangelicals of an appeal to natural rights. In Bentham's opinion the claim of the citizens of the newly created United States of America to 'life, liberty and the pursuit of happiness' was a 'jargon', the principles of the French Revolution a 'hodge-podge' of fallacies.² The only measure of right and wrong was the greatest happiness of the greatest number; its only test experience. Nor did this imply that every one had an indefeasible right to pursue his own happiness, for his activities in that direction were only justified as a means of discovering what individual rights were conducive to the greatest happiness of the greatest number. The problem of the legislator, therefore, was to produce a code of laws under the sanction of which this could be achieved. The disciple of

¹ R. I. and S. Wilberforce, *Life of William Wilberforce*, i. 98, 340, 343, 368, ii. 4, iii. 65; Viscountess Knutsford, *Life and Letters of Zachary Macaulay*, p. 139; T. Clarkson, *The History of the Abolition of the African Slave-Trade*, i. 115, 118.

² L. Stephen, *The English Utilitarians*, i. 195, 289.

natural rights was faced with the same problem. His ideal state must depend upon discovering¹

'une forme d'association qui défende et protège de toute la force commune la personne et les biens de chaque associé, et par laquelle chacun, s'unissant à tous, n'obéisse pourtant qu'à lui-même, et reste aussi libre qu'auparavant'.

Similarly, the enforcement of a code of morals was impossible without civil sanctions.

Thus all schools were reduced to the same problem of government. It was simplest for the Evangelicals, who were less concerned with a process of evolution than with the imposition of a certain ethical standard. It was most baffling for imperial trustees who had no ready-made points of contact with their wards, save their common humanity. How, then, should they proceed? Should they build upon this one common factor and imitate the old Spanish assimilation in Mexico and the Philippines? Or should they accept Montesquieu's aphorism that laws must be specially adapted to the people they govern, and that those suited to one people will not be suited to another?

Bentham defined these two alternatives in the following sentences:

'Before Montesquieu, a man who had a distant country given him to make laws for would have made short work of it. "Name to me a people," he would have said, "reach me down my Bible, and the business is done at once. The laws they have been used to, no matter what they are, mine shall supersede them; manners they shall have mine, which are the best in nature; religion they shall have mine too, which is all of it true, and the only one that is so." Since Montesquieu the number of documents which a legislator would require is considerably enlarged. "Send the people", he will say, "to me, or me to the people; lay open to me the whole tenor of their life and conversation: paint to me the face and geography of the country; give me as close and minute a view as possible of their present laws, their manners and their religion."'

Nevertheless, the difficulties presented to a Utilitarian by varieties of culture and tradition were more apparent

¹ Rousseau, *Oeuvres*, v. III.

than real, because the test of utility, or the greatest happiness of the greatest number, was the same everywhere, and was applicable to all men regardless of them. 'The circumstances influencing sensibility', to which men reacted either happily or painfully, were the same for all humanity, though the degrees in which they operated differed. The legislator, therefore, had only to arrange that their application should be suited to the peculiarities of each locality and people. His task was mechanical rather than philosophical and, consequently, was comparatively simple.¹

The promoters of the Sierra Leone Settlement of freed slaves proceeded on this principle. They announced that, being themselves bound by the British Constitution, it would be transferred to Africa and applied to black and white equally in the way best suited to the circumstances.² The ancient system of frank-pledge, based on the division of the colony into hundreds and tithings, with elections of hundreders and tithingmen, was accepted for the purpose. The common law and polity of England having originated in it, what better foundation for the future Negro state could be imagined? At the same time no attempt was to be made to impose it on the aboriginal Africans. Until their sagacity and policy, which were reported to be 'much beyond what is vulgarly imagined', had persuaded them of its advantages, any settler, black or white, who offended against them would be subject to their African customary law, unless the Governor was able to compound for the penalty which it exacted. Granville Sharp was confident that on these lines the defence, legislation, public justice, government and subordination of the settlers, and the union of the whole community, however large and extensive it might become, would be more easily accomplished than was generally conceived.³ But the problem was not amenable to so

¹ Bentham, *Works*, i. 162, 173; *Fragment on Government*, ed. F. C. Montagu, p. 31.

² Wadström, *Essay on Colonization*, 1794, Part II, p. 64.

³ P. Hoare, *Memoirs of Granville Sharp*, pp. 12-13, 135; H. Smeath-

simple a solution; and the first settlement was broken up by the local Natives before they had had time to appreciate the benefits which it designed to bring to them.¹ The collapse was attributed by Sharp, with characteristic quixotism, to the settlers' neglect of frank-pledge.

The Sierra Leone Company was then formed to take over the work. It was not at first interested in settlement. It intended to start the civilizing of Africa by sending out goods from England and taking in exchange any African exports except, of course, slaves. It contemplated setting up no more than a 'trifling factory'² at Sierra Leone. But this limited commercial programme was almost immediately supplemented by the directors accepting as settlers certain American Negroes from Nova Scotia to whom the British Government was under an obligation, owing to their having fought for it in the War of Independence. All of them had had experience of British colonial life. Some had known no other, having been born in America. They seemed, therefore, to be fit subjects for introducing its principles into Africa. They were promised equality with the whites, and the undertaking was fulfilled by both being equally subject to English law, sharing in the system of frank-pledge, voting for hundreders and tithingmen, and serving together on juries, while the Government was conducted by the Company's officers. The more turbulent settlers were not satisfied with this division of functions, and demanded a more direct control over their own destinies.

The first election of hundreders and tithingmen was held in January 1793. In May they met as a body and passed resolutions concerning stray stock and the price of meat, which were given the force of by-laws by the

man, *Plan for the Settlement to be made near Sierra Leone*, p. 10; Wadstrom, Part I, pp. 103-4, 117-18.

¹ Hostilities arose out of the kidnapping exploits of an American slaver, the bombardment of a Native village by H.M.S. *Pomona*, and a dispute over the ownership of the watering-place at St. George's Bay. Sierra Leone Company Report 1791, p. 6; Butt-Thompson, pp. 17-18.

² Wadström, op. cit., Part II, pp. 26-7.

Governor and his Council. Having thus tasted the sweets of representative institutions the settlers' appetite began to grow. But the Directors had never contemplated that they should initiate legislation. It was only 'customary' for the Governor and Council to consult them on matters of local interest. Nor were they fitted, in the Directors' opinion, to wield any executive authority or to have any voice in appointments. Their duties were to keep order among their own people, to promote harmony and to set an example of willingness to work for and defend the colony. The Government must consist of Europeans.¹ The settlers saw no reason why it should, and they sent a deputation to London to interview the Directors on the subject. The Directors, however, refused to give way, and after the election of hundreders and tithingmen held in February 1795 Zachary Macaulay, who was acting as Governor, pointed out to the settlers that until they could 'write as well, figure as well, act as well and think as well as' Europeans they could not expect to enjoy equality of opportunity with them in the government of the colony. So soon as they were qualified in these respects they would have a preference.²

The settlers were on firmer ground when they complained of their economic disabilities. One of the conditions on which they had agreed to migrate was that each man should receive 20 acres of land for himself, 10 for his wife, and 5 for each child. The Company had been unable to fulfil this undertaking, and after a long delay had allotted only a fifth of these areas, no one receiving more than 5 acres, and some on ground that was unfit for cultivation. With no other means of subsistence the settlers had been reduced to working for the company at wages which they considered to be inadequate.

¹ Wadström, Part II, p. 74, comments on this declaration—'For a time only I presume'. He supported a plan propounded in 1789 for a free community on the coast of Africa under the protection of Great Britain but entirely independent of European laws and Government.

² P.R.O. CO/270/3, where Macaulay's speech is reported verbatim. A. M. Falconbridge, *Narrative of Two Voyages to the Sierra Leone River*, pp. 262-9.

quate. Macaulay admitted the injury done them through the failure to make the full grants of land; and he undertook to distribute the balance if they agreed to pay a quit-rent. This they were not prepared to do. They asserted that they had been promised their lands free of all charges, and they objected to the clause in their grants by which the Company claimed the right to impose a quit-rent.¹ This new controversy dominated the ensuing election of hundreders and tithingmen in December 1796. No candidate was successful who favoured the payment, and feeling ran so high that a movement was started to prevent whites, not only being elected, but even voting, although two Europeans were prominently connected with the anti-Company movement. The idea of a white face being a civil disqualification provoked Macaulay to laughter. But he was far from satisfied with the election results, for the 'most ignorant and perverse of the colonists' were chosen.² In August 1797 they became active on the quit-rent question, and wrote him the following letter:³

'We are to inform you that we left lands to come here in expectation to receive lands in the same conditions as we received them in Nova Scotia. But we find it to the contrary that the company says the land is theirs. We would never have come on that condition for before we pay the 1s. per acre we will apply for lands to the Kings of the country.'

Macaulay now deemed it necessary to take precautions lest the opposition party should attempt to set up a government of their own with a dictator and council 'ruling after the manner of the Natives round us'. He could rely on the Europeans and about fifty of the settlers who showed 'an extraordinary degree of zeal for the maintenance of good order'. Nor were the hundreders and tithingmen all hostile. They had developed their constitution by dividing themselves into an upper and lower

¹ Wadström, Part II, p. 228.

² Hoare, pp. 132, 143-6, 157-8. The two Europeans were Garvin, a schoolmaster, and Bevesout, a missionary.

³ P.R.O. CO/270/4.

house and by appointing a standing committee to keep in touch with Macaulay—of both of which reforms he approved.¹ But when the Directors in London decided in 1798 that the quit-rent must be collected and that the proceeds should be applied to public utilities, the discontented parties began to enlarge their demands by denying that they were subject to any law not made by themselves, and by asserting their right to appoint a judge and two justices of the peace from among themselves.

In the meantime the Directors had applied for a new charter giving them greater authority and had decided that they would call in the land grants with the offending clause and issue new ones without it.² But unfortunately before this could be done the situation was complicated by a dispute with the local chief, King Tom, whose father had been ousted from the chieftainship for having sold the Sierra Leone peninsula to Granville Sharp's first settlers. Tom was anxious to avenge this slight, and having been chosen as chief in 1799 seized the opportunity of a quarrel with the captain of a Liverpool ship over the payment of anchorage dues to set up a palaver with the company. Some of the Nova Scotians supported him, and with him formed an association to expel the Europeans altogether. During the next few months its membership grew steadily, while the Government waited for it to commit some act of violence. At last, on 10 September 1800, a handbill was posted up announcing that:

"The new constitution of Sierra Leone is to have effect from the 25th inst, and that henceforth all applications for justice are to be made to James Robinson, Ansel Zizer, and Isaac Anderson, Hundreds."

This declaration of independence was followed by the arrest of the ringleaders and by open hostilities which were quelled only by the opportune arrival on September 30 of a ship bringing 550 emigrant Maroons from Nova

¹ Hoare, pp. 175, 187. Substance of Report, 1804, p. 13.

² P.R.O. CO/267/34. Memorandum by Mr. Richards on the land grants to the Nova Scotians.

Scotia and 45 soldiers.¹ Peace having been restored, the new charter of the company was promulgated. It gave the Directors much wider political powers. Whereas formerly they could make by-laws only on matters concerning their commerce and the control of their servants,² they were now endowed with authority to enact laws for the colony not repugnant to the laws of England, and to maintain a full-fledged colonial administration. A detachment of the Royal African Corps was stationed in the colony.

In these changed circumstances the Nova Scotians were not again a menace to the peace. Their numbers steadily declined.³ They had to share with the Maroons⁴ and other immigrants such minor offices as were open to them. The meetings of hundreders and tithingmen, which might have developed into some form of local assembly, died out. At the same time the company's position became intolerable. Its capital was exhausted, the revenue it got from Sierra Leone was negligible, and in 1808 it was obliged to hand over the colony to the Crown.

Thus ended the attempt of the British humanitarians to establish an independent colony of emancipated Africans on the west coast. Twelve years later another was promoted from the United States of America. It is described in a later chapter.⁵ It was more successful, and is now the Republic of Liberia.

¹ Sierra Leone Company, Substance of Report, 1801.

² 31 George III, cap. 55, sec. xxxiii.

³ 1,131 Nova Scotians landed in 1792. In 1811 they numbered 982, in 1820 716. P.R.O. CO/267/29, p. 51.

⁴ For the Maroons, see *The Atlantic and Slavery*, Part III, cap. iv (1).

⁵ Part III, cap. iv.

CHAPTER II

THE TREATY SYSTEM

1. *Sierra Leone*

THE new humane imperialism did not deflect the British from their policy of eschewing all interference in the government of Native territories outside the occupied settlements and forts, for, although it awakened a keener sense of trusteeship for the welfare of Africans in general, it indicated how the trust might be more properly fulfilled indirectly by the exploration of Africa and by the increased demand for imported goods which follow as a matter of course from opening up the interior, than by direct administrative action. The settlement at Sierra Leone was expected to contribute to these ends. It was an island of European influence in a sea of African barbarism. Its law and its administration were English, but its jurisdiction was confined within its borders, and any additional land acquired from adjacent chiefs for its population was added to the area segregated from African control and included under European influence. The terms of the treaties embodying the process were closely scrutinized by the home Government lest they should involve it in some wider and more comprehensive engagement. Humanitarians considered that the multiplication of Sierra Leones and Liberias along the whole coast of Nigritia would be the best means of scotching the illegal slave-trade and civilizing Africa.¹ Some even advocated white settlement with the same objects in view.

A British 'Commission of Enquiry of 1812' collected much information on the subject. It showed that as the Europeans' control was so restricted the position of the

¹ See *African Repository*, iii. 212. Ashmun's plan of 'sending forward our establishments into the bosom of the tribes around us, and appending to each of these establishments a school for the education of their children.' Also viii. 257-66. A letter from Clarkson—'No better way than by cutting the coast into portions and settling in each a number of manumitted slaves'.

settlers would be precarious. They would be subject to the jurisdiction of the Native chiefs from whom they held their land, and their undisturbed enjoyment of it would depend upon the annual payments made to retain the chief's goodwill, which, in turn, would be effective only in so far as his own people were concerned, and would not protect the settlers from the incursions of other Natives. It would be difficult to imagine a less satisfactory tenure, and naturally nothing came of the proposal. The only recommendation which the Commission found it possible to make on the future development of the country was that judgement should be reserved until the Natives had had time to demonstrate whether the personal security, which was now assumed to be theirs since the abolition of the slave-trade, would stimulate them to improve themselves, or whether they would continue to be satisfied with a bare subsistence. In the meantime, policy should be concentrated on Sierra Leone, which was the best centre of civilization owing to the Mandingoes and Foulahs being already so far advanced.¹ Moreover, it was the most convenient place for establishing Africans liberated from the slave-trade.

These plans agreed with the policy of the Evangelicals. After handing over Sierra Leone to the Government, they formed a new organization, named the 'African Institute', to watch over the execution of the slave-trade law and to promote the civilization of Africa 'through the judicious prosecution of benevolent endeavours'. They did not 'undertake religious missions or engage in commercial speculations'. They bought no land from chiefs. They were content to collect and diffuse accurate information, if possible through the Native languages, to assist education, to encourage the introduction of seeds, plants, implements and medicines into Africa, and the importation of African produce into England.² Peronnet Thompson, who was the first Governor of Sierra Leone

¹ P.R.O. CO/267/29.

² Report of the Committee of the African Institution, 1807, pp. 1-5, 34; 1808, p. 13.

appointed by the Government, was an active supporter of all these objects. He was a youthful and enthusiastic disciple of Wilberforce and of Bentham, and had already a remarkable variety of achievements to his credit. He was but twenty-five years old, and after being seventh wrangler at Cambridge had become successively a midshipman in the navy, a Fellow of Queen's College, a subaltern in the army and a prisoner of the Spaniards in Buenos Aires. After his governorship of Sierra Leone he continued the diversity of his avocations, and, with growing distinction, was an authoritative writer on free trade, a philosophical radical member of Parliament, and a General. His humanitarian impulsiveness was his undoing in Sierra Leone, for he antagonized the promoters of the Sierra Leone Company by accusing them of having condoned slavery under the guise of apprenticeship, and he embarked on a Native policy which was founded on the most grotesque *a priori* notions of African conditions and on the theory that the Company's servants in their own interests had slandered the Natives by false representations.¹

Thompson acted on the Utilitarian assumption that opening up communications with the interior would create so large a demand for British manufactures that the whole continent might eventually be flooded with them, the appetite of the Negroes growing with the supply. As a foundation for this new era of beneficent expansion he set to work to negotiate treaties with neighbouring chiefs, uniting them and the British Government in a league of mutual assistance. If an associated chief were attacked, the others must come to his aid. If he had a dispute with a tribe not included in the league the allies should endeavour to settle it, and if they failed to do so they must then support him, unless his cause was manifestly unjust. In disputes between any of the associated chiefs a general council should be summoned, and a refusal by the chief to accept its decision would be a fair cause of war against him. Associated chiefs must keep

¹ P.R.O. CO/267/28, 6 June 1810.

each other informed on all matters of mutual interest. Their people were to enjoy 'all the privileges of the inhabitants of the colony of Sierra Leone', including that of pleading according to the forms of English law, and they themselves were to be received by all sentries with the compliments due to commissioned officers of the army, a house in Freetown being set aside for their use. Their children were to be educated in English arts and knowledge, and some of their young men trained 'in the use of great guns and other English fashions of war'.¹

The British Government was naturally alarmed when it heard of its new treaty obligations. It was willing to do its best to keep the peace between chiefs, but would not be committed to active intervention. It would not even interfere with 'the ancient customs of Africa' by refusing to restore fugitive domestic slaves to their owners. Thompson was recalled for a consultation with the Government which never took place, and Captain Columbine, who was appointed to succeed him, was instructed by Lord Castlereagh to explain the position to the chiefs and get out of the commitment as best he could.² The process cannot have been difficult, for the treaties must have meant but little to the African signatories.

Charles M'Carthy, who followed Columbine in 1814, made three agreements with chiefs in order to acquire land on which to settle liberated Africans and eleven hundred soldiers of the West India Regiment who were discharged in Freetown.³ Each treaty emphasized that the area it referred to was transferred by the king, the chiefs and the headman in whose hands its disposal rested, that the land was then held by the British Government 'in

¹ P.R.O. CO/270/11, pp. 12, 27-8.

² P.R.O. CO/268/18, 19, 270/12. Thompson was very indignant at his recall. Writing to Liverpool in January 1810, Wilberforce reports, 'I am happy to say that Mr. Thompson begins to cool'. CO/267/28.

³ The treaties referred to the de Los Islands, the Banana islands, and ground on the right bank of the Bunce river on which are Hastings and Waterloo. P.R.O. CO/267/47, 270/14, p. 306, 6 July 1818; 267/49.16, Jan. 1819, 19 July 1819; 270/16, pp. 52-8.

full, entire, free and unlimited possession', but still subject to payments in 'bars' in lieu of customs and other dues, and subject to a guarantee that the Natives in occupation would not be disturbed so long as they submitted to the law, which meant English law. The British Government approved these acquisitions. It also accepted a convention negotiated by D. M. Hamilton, who was Governor ad interim after M'Carthy's death in 1824,¹ transferring to the Government certain islands and land already leased by the Natives to British subjects, for a total rental of 550 bars.² But the Government refused to ratify the conventions made in 1825 by Major-General Turner, M'Carthy's successor, with the chiefs of Timdel, Bendu, Cha, Bumpe, Kagboro and Nongoba Bullom at Sherboro. In his dispatch, disallowing them, Lord Bathurst wrote:

'His Majesty is unwilling to sanction any proceeding which might be found to interfere with the rights of these Natives, nor could His Majesty consent to any arrangement which might be construed into a desire for territorial aggrandisement.'

Turner was instructed to inform the chiefs that, however gratified His Majesty might be by their willingness to submit to his sovereignty, yet their connexion with Great Britain 'must be confined to one of amity and friendly intercourse'. Not until 1861 was the purchase of the first three chiefdoms confirmed, and of the last three not until 1881 and 1882. Lord Bathurst also refused to ratify Turner's treaty with the chiefs of Bakke Lokko, and British sovereignty was not asserted over it until 1893.³ Again in 1862, when part of Koya was added to the colony in order to provide more land for liberated Africans, the treaty of acquisition stipulated that all persons who did not wish to live under or render obedience to British law must leave. Those who chose to remain would be accepted into the Sierra Leone community and be pro-

¹ See below, p. 20.

² P.R.O. CO/267/60; 11 Nov. 1824.

³ P.R.O. CO/268/20, 18 and 19 Dec. 1825, 22 April 1826; F. N. Goddard, *Sierra Leone*, 37, 102.

tected.¹ The only other acquisition by the Government gave it control over the seaboard of all independent Native territory in the form of a strip a quarter of a mile wide along its whole length and on both banks of the Great and the Little Scarcies rivers and a mile wide on the north bank of the Sierra Leone river.²

2. *The Gold Coast*

The problem facing the British Government in the Gold Coast was more complicated. The clash between the Ashantis and the Fantis, so anxiously dreaded in the eighteenth century by the Council at Cape Coast Castle,³ was now in full blast. The first Ashanti war had been fought in 1806 and the confederacy of the coastal peoples formed by the Fantis had been defeated. An ignominious peace had acknowledged the sovereignty of Tutu Kwamina, the Ashanti King, over the whole coast; and in proof of it he was paid the arrears due on the 'Notes' for Cape Coast Castle and Anamabo, although the actual documents were not in his possession. This settlement was only the precursor of further hostilities, the second and third Ashanti wars being fought between 1808 and 1816. At their conclusion T. E. Bowditch was sent as an emissary to Kumassi to try and establish a more permanent understanding. He tried to bind the Ashanti King not to fight until he had referred the matter in dispute to the Governor. But the plan was abortive because on the first occasion when the Ashantis submitted a complaint against the Natives of Komenda, the Governor found himself unable to do anything, and so laid himself open to an accusation of bad faith.⁴

Soon after this failure the British Government took

¹ Treaty, 1 Feb. 1862.

² Treaties 29 Nov. 1847, 10 June 1876. Hertslet.

³ *The Atlantic and Slavery*, p. 32.

⁴ W. W. Claridge, *A History of the Gold Coast*, i. 245, 251-2, 279, 290; Report of the Committee appointed to consider the state of the British Establishments on the West Coast of Africa, P.P. 1865, v. 417. The Bowditch treaty of 1817.

over the African settlements and forts from the Company of Merchants Trading in Africa, which had held them since 1752,¹ and placed them under M'Carthy, with his head-quarters in Sierra Leone. At the same time it appointed Joseph Dupuis to be Consul at Kumassi, and a new treaty emerged as the result of his diplomacy. It made the King a sworn ally who undertook to protect British interests and to march his army to any part of the country in their defence. In return, his claim to all the Fanti territory was again admitted, but on the express condition that he acknowledged that Natives under British protection were entitled to the benefits of British law. Again the result was unsatisfactory and furnished the Ashantis with another grievance because the treaty was never ratified. M'Carthy disapproved of it and refused to accept it. He had no patience with what he called 'the imbecility of Dupuis' in handing over the Natives of the coast to the tender mercies of the King of Ashanti on the strength of an empty oath, especially at a time when Dutch influence at Kumassi was particularly active.² He could conceive of no way of avoiding the fourth Ashanti war. It broke out in 1824, and M'Carthy lost his life in the disaster of Isamankow.

So far the British record on the Gold Coast had been two abortive treaties and a disaster, and in the circumstances it is not surprising that the country appeared to Major-General Turner not worth the sacrifices made for it. He could not understand why so large an establishment was kept at Cape Coast Castle, where 'we have neither territory, sovereignty nor subjects and consequently no right to administer laws, power to enforce them nor colonists to receive them'. The Castle was no more than the fort, and yet it had a Colonial Secretary and Registrar at a salary of £500, an Accountant at £400, and

¹ *The Atlantic and Slavery*, p. 22.

² P.R.O. CO/267/56. Letter of 18 May 1822. General Daendels was appointed Governor-General of Guinea by the Dutch Restoration Government in 1816. He called at Sierra Leone on his way out and interviewed M'Carthy. CO/267/42, 2 Jan. 1816.

seven writers, two of whom could neither read nor write. He recommended abandoning the forts of Dixcove and Anamabo, and concentrating all troops at Accra and Cape Coast Castle; or preferably evacuating all four, for they could never adequately compensate 'in commerce, civilization or religious instruction' the expense of retaining them. Gambia and Sierra Leone must always be preferable. Writing from Accra a fortnight later, Turner suggested that if the coast were not evacuated the Government should purchase Elmina from the Dutch, and, 'from the Natives at trifling expense', a narrow strip of territory five miles wide parallel with the sea and stretching from west of Elmina to Accra in order to secure the right to keep strangers off. 'We would then command the whole trade of the coast with no risk of war with the Natives'. He recognized, however, that the account with the Ashantis had first to be settled, and on landing issued a proclamation announcing that he would make peace only on condition of the King abandoning his claim to tribute from the coast peoples and contenting himself with ruling the Ashantis.¹

The British Government was not prepared either to abandon the Gold Coast or to enlarge its holdings on it. A departmental memorandum pointed out that a 'point d'appui' in the neighbourhood was essential, and that if Great Britain withdrew altogether the United States would almost certainly step into her shoes,² a contingency which, as events proved, was imaginary. The purchase of a strip of coast was equally unacceptable, for, as Lord Bathurst pointed out, it would involve political responsibilities far too serious to contemplate.³ He announced the Government's decisions to reduce the places occupied to Cape Coast Castle and Accra, and to avoid obtaining any territory on the coast outside their immediate vicinity.

¹ P.R.O. CO/267/65. Letters of 24 March and 9 April 1825.

² M'Carthy reported in 1822 that the Dutch intended to sell their forts to the Americans.

³ CO/267/65. Letter of 2 July 1825, CO/268/20. Letter of 22 Oct. 1825.

Before these instructions reached Turner the Ashantis had been defeated in the battle of Dodowa, a victory which gained for the British the possession of the 'Notes', and so made them for the first time the owners of the land on which the European forts had stood for more than three centuries. Henceforth they paid no rent and were the ground-landlords of the Dutch. But to collect rent from others would be a negation of the resolve to avoid territorial expansion, and the Dutch continued to pay their rent to the King of Ashanti.¹

The victory of Dodowa cleared up the situation by depriving the Ashantis of the sovereignty over the coast. But it still left unsettled the vexed problem of ensuring the security of the coastal peoples without involving the British Government too deeply. Making the Governor an arbitrator had failed. Swearing the Ashantis as allies had been rejected. There seemed no other alternative than Thompson's plan of a league of chiefs. The treaty of 10 December 1827 was based on this principle. The parties to it were the King of England and the Kings of Ashanti, Cape Coast, Fanti, Denkera, Wassaw, and three others. If any one of them committed an act of aggression the British Governor was to summon two or more of them as a Council and deliver an award. If a chief refused to abide by it he ceased to be a member of the confederacy, and 'must arrange his disputes as best he can'. The King of Ashanti was required in addition to deposit hostages and gold, to be forfeited if he were obdurate. Although this treaty was never acted upon, the collective principle enshrined in it was preserved in the ensuing treaty of 27 April 1831, which declared that all palavers should be decided 'in the manner mentioned in the former peace treaty'. The extent to which the British Government was bound by it was obviously 'vague and undefined like so many other things connected with African affairs'.² But at least the treaty was clear on the abrogation of the King of Ashanti's sovereignty over the coast peoples. It obliged

¹ CO/268/20, 5 July 1825; Claridge, i. 391.

² Report of the 1865 Committee, pp. 417, 418.

him to keep the trading paths open and to see that no one was molested in using them.

Three years before the signing of this important instrument the administration of the forts had again been handed over to a Committee of London merchants, and the terms on which the transfer had been effected gave some indication of what the Government's interpretation of its obligations under the treaty would be. The Committee's jurisdiction was confined to the forts only and 'the districts and Natives under the immediate protection of the forts' were specifically excluded, and were to be assisted against the Ashantis only if the forts were directly threatened. But the Committee appointed Captain George Maclean to represent them on the Gold Coast. He negotiated the treaty of 1831, and his genius for Native administration soon spread his influence over an area stretching far inland. Moreover, in spite of his authority requiring him to be guided by English law only, he began to administer Native law, adjusting it as best he could to British standards.¹ The Government could not be indifferent to so radical a departure from the terms on which the forts had been transferred to the Committee. By his action Maclean broke down the barrier between European and Native territory, assumed responsibility for administering Natives instead of leaving them to themselves, and made English law subservient to Native custom. The opposite procedure of administering English law to Natives in the colony and adjusting it to local circumstances only when absolutely necessary had already been adopted in Sierra Leone. It had had M'Carthy's enthusiastic support, and it seemed to be the only reasonable policy in the opinion of Dr. Madden, whom Lord John Russell commissioned in 1841 to report on the West African settlements. His praise of the administration of justice in Sierra Leone, 'where the Native seems to feel he is a free man and knows his rights and respects his neighbours',² was a contrast to his condemnation of

¹ Claridge, i. 414-15; 1865 Committee, pp. 435-6.

² P.R.O. CO/267/13. 12.

Maclean's system on the Gold Coast. He recognized that it was futile to talk of introducing English law in the absence of adequate machinery for its administration, such as existed in Sierra Leone. He sympathized also with the wish of the Native chiefs not to be subject to it. As one of them explained:

'We would wish to have nothing here to do with English laws; we like the English here but not to make laws for us. The country is ours and we are the allies of the English, but we do not want to be made its subjects. The fort belongs to you, but the country belongs to us.'

Madden thought this attitude perfectly reasonable, because the British Government had failed to protect the Natives when they were attacked by the Ashantis. But it did not excuse Maclean's action in administering Native law in territory specifically excluded from the Committee's jurisdiction.

When Madden's report was received, the Government referred it to a Parliamentary Select Committee which showed a more just appreciation of Maclean's services. It found that within the range of his influence he had suppressed the external slave-trade, had maintained peace and security and had exercised a useful though irregular jurisdiction among the neighbouring tribes. To throw over such achievements, especially the one relating to the slave-trade, for no other reason than their legal irregularity, would have been the height of folly. But the Committee suggested that the jurisdiction on which they depended should be regularized by agreements with the chiefs.¹

One of Maclean's principles was to avoid interfering in domestic slavery. On the other hand, his success in controlling the external slave-trade was a contrast to the failure of other efforts in that direction, and more particularly to the contemporary tragedy of the Niger

¹ P.R.O. CO/268/37. Letter 14 July 1841; Report of the Commissioner of Enquiry on the Western Coast of Africa, 1842, Report of Select Committee, 1842-3, *P.P.* 1875, iii. Lord Carnarvon's dispatch of 20 Aug. 1874.

Expedition of 1841. The ineffectiveness of the African Institute's 'benevolent endeavours' had soon become apparent, and another society for the 'Mitigation and Gradual Abolition of Slavery', formed in 1823 to take its place, had been equally fruitless. Then in the summer of 1837 Thomas Fowell Buxton, during a sleepless night, 'hit upon the remedy'. It was a combination of Turner's treaty policy, the African Institute's indirect methods, and Peronnet Thompson's plan of collective security, enlarged to include all the chiefs 'from the Gambia on the west coast to Bagirmi on the east', and from the desert to the north to the Gulf of Guinea on the south'. Buxton founded the 'Society for the Extinction of the Slave Trade and for the Civilization of Africa' as his instrument in this grandiose plan, and sent forth the Niger Expedition to begin the work. Success depended upon making agreements with chiefs according to a model treaty prepared in London and issued to the leaders of the expedition. It covered the purchase of land for forts, the protection of chiefs who co-operated in suppressing the slave-trade and even the extension of British sovereignty over those who desired it. It provided for the appointment of Resident Agents and for the free access of British traders to the chief's territory and their right to buy and lease land in it. It required traders to respect the Native laws and customs and empowered a chief to detain any who did not until he had communicated with 'the nearest place where there is a British force'. If a trader suffered damage at the hands of a Native the chief was to do his best to secure him reparation.¹

The complete failure of the Niger Expedition, through fever, was the end of the model treaty and left Maclean's success unchallenged. The Government perforce accepted the position he had created and which had been acknowledged by the Select Committee. It again took over the administration of the forts, attaching them once more to

¹ Sir T. F. Buxton, *The African Slave Trade and its Remedy*, pp. 297-9; Charles Buxton, *Memoirs of Sir Thomas Fowell Buxton*, pp. 429, 516. *P.P.* 1843, xlvi; 1865, v. 424-6.

Sierra Leone and appointing Maclean to a new office of 'Judicial Assessor', his function being to co-operate with the chiefs in the administration of justice in the area now commonly called 'the Protectorate'. At the same time the Foreign Jurisdiction Act of 1843¹ made generally applicable a power already existing in Canada and Cape Colony,² to adjudicate on British subjects beyond the borders of the Colony and to intervene in disputes between them and the Natives. No longer were they to be left to Native jurisdiction. But the Act did not authorize the Judicial Assessor to interfere in the administration of justice when Europeans were not concerned. His right to do that could depend only:³

'On the assent and concurrence of the sovereign power of the State within which it is exercised, either expressed or implied from long usage, as in the case of the long and general acquiescence which can be shown in many districts in the authority hitherto exercised by Mr. Maclean.'

In due course this acquiescence was recorded in 'The Bond' of 1844 by which the chiefs assented to the Judicial Assessor's appointment and agreed that the first object of the law was the protection of persons and of property, that human sacrifices and other barbarous customs were abominations, and that murders, robberies, and other crimes should be inquired into before the Queen's judicial officers and the chiefs of the districts, 'moulding the customs of the country to the general principles of British law'.

¹ 6 & 7 Vict. cap. 94.

² See below, p. 232.

³ 1865 Committee, pp. 437-8. Lord Stanley's dispatch.

CHAPTER III

THE PROTECTORATES AND NIGERIA

1. *Sierra Leone*

THE colony of Sierra Leone improved rapidly after it had been taken over by the British Government. According to M'Carthy, whose judgement, however, on such matters was inclined to be sanguine, the settlers were in 1814 'rapidly advancing towards English manners . . . and accumulating considerable personal property'. This they did mainly by trade with the interior, on which also the finances of the colony almost wholly depended. Its commerce rapidly expanded. Its revenue of £9,400 in 1837 was £20,000 in 1847, the increase arising mainly from customs. In 1840 the value of ground-nuts exported was £1,600, in 1850 it was £17,500. In 1840 palm-oil accounted for £11,500 and in 1850 for £24,900. Business was so active that the inland Natives neglected to grow their rice and cassava crops and suffered from a food scarcity in consequence.¹ And yet in terms of the civilization of Africa and of the reduction of slavery—the two objects that the humanitarians had hoped the colony would advance—the results were disappointing.

The cause of the failure was the disturbed condition of the hinterland arising from several causes which were remediable only through the intervention of some superior power. In the first place, Native society was highly fissiparous. The two largest ethnical groups, the Temnes and the Mendes, who were in closest contact with the colonists, were subdivided into numerous chiefdoms independent of each other and owing no common allegiance. Their quarrels encouraged the Government in its resolve

¹ *P.P.* 1847, xxxvii, 1847/8, xlvi, 1849, xxxiv, 1851, xxxiv. The figures omit produce handled in the rivers and so not included in the Freetown returns.

to avoid increasing its commitments, and when the 'model treaty' was sent to Sierra Leone all references to protection were excised from it. After the passing of the Foreign Jurisdiction Act, however, this policy was mitigated to the extent of attempting to keep the peace by paying subsidies to the chiefs and by requiring them to refer their disputes to the Governor, while the persons and property of British subjects in their territories were removed from their jurisdiction. Then in 1880 a more stringent form of treaty was adopted with the chiefs on the Boom river.¹ By it the chiefs solemnly declared that any one of them breaking his plighted word (to keep the peace)

'shall be considered to be the enemy of the Queen's Government and the enemy of the whole of us who have signed this paper . . . and be considered to have forfeited his right to govern, and Her Majesty's Government shall have the right to remove him.'

On the other hand, when two years later a tribal war broke out on the Jong river and some of the chiefs applied to come under British protection, the reply of Lord Kimberley, who was Secretary of State for the Colonies, was not encouraging. He took his stand on the Turner treaty of 1825, which Lord Bathurst had construed as committing its signatories to no more than 'amity and friendly intercourse'. He instructed the Governor to inform the chiefs that having been included in it they were already substantially in the position they desired, and that they would enjoy its benefits so long as they behaved well. That the benefits were illusory was made obvious by Lord Kimberley at the same time ordering the Governor to caution the local commandant to 'have as little as possible to do with the affairs of the people in question'.²

The internal slave-trade was a second and still more potent cause of unrest. It was carried on by African traders from the interior who came into competition with the legitimate trade of the Sierra Leonians from the coast.

¹ *P.P.* 1883, xlvi. C. 3597, Treaty 6 Feb. 1880.

² *P.P.* 1882, xlvi. C. 3420.

The trouble which broke out in 1882 arose from their mutual competition and intrigues and from the characteristic agitations of a Foulah headman, a maker of charms and amulets, who lived by 'cooking wars', that is to say, organizing marauding parties. For eight years, until 1890, disturbance was almost continuous. The effect on the trade of the colony was naturally deplorable and led to demands from the Sierra Leonians for a more active intervention. A mass meeting was held at Freetown on the subject and a memorial was drawn up to be sent to London. The Governor, in forwarding it, declared that the Natives nearest to the colony were anxious for a more active interest to be taken in their affairs, and that the chiefs who ceded the strip of coast a quarter of a mile wide now complained that in return they had received no help in settling their domestic troubles. Moreover, the more distant tribes seemed willing to come under British control and to accept British law, so long as slavery was not interfered with.¹ On this point, however, there could be no compromise. The Powers were now bound by the Berlin Act of 1885 to suppress slavery and the slave-trade everywhere, while five years later this undertaking was reaffirmed in the Brussels Act with an added declaration that one of the most effective methods would be—

'the progressive organization of the administrative, judicial, religious, and military services of the African territories placed under the sovereignty or protectorate of civilized nations.'

Here clearly was an end of abstention and aloofness. Europe was now pledged to take Africa in hand.

So far as Sierra Leone was concerned the new departure was interpreted as absolving the Government from any further obligation to base its actions on treaties with the chiefs. The northern and eastern boundaries of the Protectorate were settled by agreements with France in 1882 and 1895 respectively, and the boundary with Liberia was demarcated in 1885. To none of these arrangements were the Natives parties. Their consent was no longer

¹ *P.P.* 1886, xlvii. C. 4642.

necessary because the jurisdiction under which the agreements were implemented had:¹

'arisen out of the necessity that falls upon a civilizing power claiming influence in such localities to put down gross disorders and inhuman sacrifices in the places within its sphere.'

So also was the Protectorate formally proclaimed on 21 August 1896 without any treaty preliminaries. A protector had a right to assume 'whatever of the attributes of sovereignty are required for the due discharge of' his duties.

2. *The Gold Coast*

Two results of Maclean's administration, which closed with his death in 1847, were increases in the population of the area under 'bond' jurisdiction and a growing tendency to accept European standards in the neighbourhood of the forts. Reporting in 1846, the Lieutenant-Governor described as almost incredible the improvement in Native houses, furniture, and clothes during the previous ten years. He pictured a Gold Coast in another decade resembling a West Indian island. Two years later he asserted that every succeeding year proclaimed the progress of civilization and that it was delightful to notice the high estimation in which the inhabitants were beginning to hold the manners, customs, and institutions of civilized life. When, therefore, the Gold Coast was in 1850 again separated from Sierra Leone and was promoted to be a colony with its own Executive and Legislative Councils, it seemed worthy of a policy which had as its object 'the formation of a government on the European model'.²

The first step in this direction arose from the absence of British political authority in the protectorate, and from the desire of the new Government to raise a revenue in it.

¹ *P.P.* 1899, ix. 162-75. Chamberlain's dispatch of 7 July 1899.

² *P.P.* 1847, xxvii, 1849, xxxiv; Earl Grey, *Colonial Policy of Lord John Russell's Administration*, ii. 286. The phrase is Grey's. He was Colonial Secretary, 1846-52.

The Danish Gold Coast forts having been purchased in 1850, the Government, on the strength of the greater control over the import trade that the acquisition gave it, decided to impose a tariff. Unfortunately, Dutch competition upset the plan and caused the Government to substitute a poll-tax. In the absence of any constituted authority by which it could be imposed, the Governor formed the 'windward' chiefs, that is to say, the chiefs from Apollonia to the Succoom river, into a National Assembly, 'having authority to enact such laws as it shall see fit', and self-constituted by the first section of the only ordinance that it passed which imposed the poll-tax. The chiefs then gave the law the form of a treaty by severally signing it, and the Assembly dissolved. The document was then submitted to meetings of the 'leeward' chiefs at Accra and of the chiefs between the Volta and the Kedjie rivers at Quitta. The former adopted it, the latter did not. The revenue derived from it was to be devoted to education, the appointment of additional magistrates, the development of internal communications, increased health services, and so-forth.

'This rude Negro parliament' was regarded by its instigator, Earl Grey, as having:¹

'converted a number of barbarous tribes, possessing nothing which deserves the name of government, into a nation with a regularly organized authority and institutions simple and unpretending but suited to the actual state of society, and containing within themselves all that is necessary for their future development, so that they may meet the growing wants of an advancing civilization.'

But such optimism was not justified.

Sir Benjamin Pine, who came from Natal to be Governor, regarded the institution of a national assembly as 'utterly impracticable'. The Colonial Office was of the same opinion. 'The present state of Gold Coast society was not ripe for enactments of that kind.' The principal difficulty was to combine representation of the individualistic European and African urban interests—the traders,

¹ Grey, ii. 285-6.

the clerks, the pastors and others whose civilized achievements were so full of promise—with that of the great majority who were still subject to tribal restrictions. Pine, in spite of his conviction of the impracticability of a National Assembly, was persuaded that the analogies between those two conditions of society, so widely different in most aspects, were still strong enough to justify the creation of district and municipal councils, using the poll-tax as the starting-point. He therefore directed that two-thirds of the tax should be appropriated to the Government to spend on magistrates, hospitals, and schools, while the remaining third should be earmarked for local improvements and should be controlled by district councils composed of chiefs, traders, and other principal inhabitants, appointed by the Governor, and charged also with the duty of repealing or amending Native laws and customs. But the plan broke down at once in practice because Pine found that in order to bring the towns into the scheme at all he had to nominate 'an undue proportion of the merchants', which, added to the backwardness of the chiefs in attending meetings, caused the councils to become purely urban.¹

The municipal councils failed for the same reason. Pine was shocked by 'the disorderly and filthy state' of Cape Coast Town and of James Town, Accra. Their condition was far worse than that of the Native towns in the interior. He regarded it as one of the signs of 'the general retrogression of these settlements of late years', and he attributed it to the fort governments overshadowing the powers of the chiefs who, however, were still strong enough to hamper efficiency. He required them to command their people to clean the streets. But they did nothing. The failure convinced him that some form of strong Native government must be established, in order to 'accustom the people to orderly Government and educate them in habits of self-reliance'. To restore the authority of the chiefs was impossible owing to the presence of 'the large class of Native traders and merchants'. The

¹ P.R.O. CO/96/41 and 43. Ordinances 18 and 19 of 1858.

two had somehow to be combined, incorporating the authority of the chiefs while strengthening the influence of the more intelligent Natives. A simple form of municipal corporation might fulfil these purposes. Pine had passed a Municipal Ordinance in Natal.¹ He now took it as his guide, simplifying it to meet the different circumstances.

The political situation in Cape Coast Town was not at the moment favourable, in Pine's opinion, for the experiment to be tried there. The chief, Kofi Amissah, who succeeded Joe Aggri in 1853, was not of the blood royal, and an attempt, led by three educated Native merchants named Barnes, Smith and Hughes, had been made in 1854 to replace him by one Thompson, who had been a schoolmaster in the fort. The plot failed owing to the firmness of Henry Connar, the acting Governor;² but in 1856 the people refused any longer to acknowledge Kofi Amissah, although they could not enstool a substitute without the consent of the Governor. In Accra, however, the municipal idea was welcomed by the 'intelligent classes' of James Town. They at once formed a committee to register houses and ascertain the rates that could be levied on them; and they and the local chief were so helpful that Pine proceeded to establish the municipality before the ordinance necessary to legalize it had passed its second reading in the Legislative Council. In April 1857 he held a meeting in the hall of the fort to elect the seven councillors, and the procedure then adopted was designed to suit both educated and uneducated voters. The latter, whose 'habits and usages' made it difficult for them to understand individual polling, recorded their votes by classes through their respective chiefs, while the former voted by heads. One singular feature of the election was that the chiefs voted only for merchants of their own colour and never for another chief, while the merchants, 'with very good taste', voted only for the most intelligent of the chiefs. The result was that five traders,

¹ Natal Ordinance No. 6 of 1853. P.R.O. CO/180/1.

² P.R.O. CO/96/31. Dispatch 18 Dec. 1854.

'including a very extensive and respectable coloured merchant, a West Indian coloured gentleman, the agent of a mercantile house, and three well-conducted black traders' were elected. The chief of the town and James Bannerman, the Civil Commandant, who had acted as Governor of the Gold Coast from December 1850 until October 1851, were the other two members. The traders thus had a commanding majority. On the following day the council was sworn and in the evening dined with the Governor. Then they set to work, passing such stringent by-laws about nuisances that Pine feared the chiefs would object to them. Inspired by this example the people of Cape Coast Town decided to have a municipal council also. It was elected in August by the same method. Amongst the seven members were the same Barnes, Smith, Hughes and Thompson who had been involved in the affair of 1854.¹

Despite these beginnings the experiment was a complete failure within two years. One cause of the collapse was financial. The rates imposed by the councils were estimated to bring in £210 in each town. This was four times the amount hitherto paid in poll-tax, and still the inhabitants remained liable to pay two-thirds of the poll-tax to the Government. Hence the towns were faced with an enormous increase in taxation, and neither rates nor poll-tax were collected. Another cause was the difficulty of co-ordinating the jurisdictions of the chiefs' courts with the mayors' courts which were part of the municipal establishment. Every litigant was left free to choose whichever he preferred; but that did not prevent clashes between the two, such as caused the riot in Cape Coast Castle in November 1859.² The trouble was begun by a dispute between two of the companies, into which the town population was divided, over the flag adopted by one of them. The chief supported one side, the mayor's court gave judgement in favour of the other, and bloodshed was the consequence. In the end the Governor had

¹ P.R.O. CO/96/43. Bird's dispatch, 10 Aug. 1858.

² P.R.O. CO/96/47.

to assume the duty of issuing flags to the companies. Hence in this matter municipal institutions had had exactly the opposite effect to that intended by the promoters. Merivale, the Permanent Under-Secretary of State for the Colonies, commented on the episode: 'I fear Cape Coast Town is at the best an unmanageable place.' Nor was James Town any better. Nothing but a crop of 'quarrels, disturbances and ill will between different classes' was reaped. 'There was a lack of a sufficient proportion of educated residents' and 'an utter inexperience and want of confidence in the great mass of the people in such institutions', declared the Ordinance that demolished the Municipal Councils in 1861.¹

The demise of the poll-tax, which took place at the same time, was largely due to the opposition of the chiefs. Expenditure of the proceeds on additional magistrates and on the 'improvement of the judicial system' tended to weaken their authority and was not welcomed by them. Evidence of their discontent was their willingness to listen to the blandishments of the so-called 'scholars' who were the offshoots of European education and contact. Governors had in the past often drawn attention to the limited employment available for those who passed through the schools, although they were 'only a trifling proportion of the population'.² Most of them tried their hands at trade, but few succeeded. Others became clerks or petty lawyers or simply 'scholars', whose only claim to the description was their moderate ability to read and write English.³ Those who were dissatisfied with their prospects or embittered by failure noted the apparent anxiety of the British Government to limit its responsibilities, and taking advantage of the anomalous and undefined nature of the protectorate, reminded the chiefs that they were not subjects and therefore owed no obedience

¹ Ordinance 35 of 1861.

² *P.P.* 1847, xxxvii. 146; 1849, xxiv. 308; 1860, xliv. 163.

³ *P.P.* 1856, xlii; J. A. B. Horton, *Western African Countries and Peoples*.

to the protecting power.¹ The chiefs listened all the more readily because they were now incensed against the Judicial Assessor. In a petition prepared in Cape Coast Town shortly before the death of Joe Aggri, who had signed the 'Bond' of 1844, they complained of the Assessor's 'tyranny and despotism in endeavouring by coercive measures to abolish the civil rights, institutions, and innocent customs of the country'.² A few years later they were again reminded that they could not rely on the British Government to defend them against the Ashantis, for in May 1864, after the fifth Ashanti war, the Government withdrew all troops except the regular coast garrisons and informed the protectorate chiefs that they must expect no assistance in future unless the safety of the forts were directly threatened—a decision that was welcomed by the Committee appointed in 1865 to consider the state of the British establishments on the West Coast of Africa.

Two episodes directly arose out of these events. The first was the revolt of John Aggri. Soon after he had been enstooled as king of Cape Coast Town in February 1865 he began to complain against the passing of ordinances by the Legislative Council of the Gold Coast without his people being consulted and against customs duties being collected without his getting a share of them. He announced his intention of forming a Corps of Natives trained to arms, and then proceeded to defy British authority on two points of criminal justice. First he tried to assert his own jurisdiction over a man who was a British subject because he had been born just outside the walls of the castle. There was, it is true, no precise definition of British sovereign territory, but it was customary to regard it as all land within range of the guns. Secondly, he refused to acknowledge the competence of the Court in Cape Coast Castle before which the man should have been brought. In support of the first claim Aggri quoted

¹ P.R.O. CO/96/31. Merivale's Minute on the Kofi Amissah case.

² P.R.O. CO/96/28. Petition of 20 Aug. 1856. P.P. 1856, xlii. The case of Judicial Assessor Fitzpatrick.

a statement in Madden's report that British territory was confined to the areas inside the castle and the fort walls. In respect of the second, he announced his determination to defend his judicial powers against the intrusions of the Judicial Assessor. He sent an emissary to London to give evidence before the 1865 Committee, who on returning declared that the Committee favoured the whites being confined to the castle and forts and the Africans being left to govern themselves according to Fanti law. This was not an unfair deduction from the Committee's recommendations and also from the warning issued by the Government that the chiefs were no longer to look to it for protection if the forts were not attacked. Eventually, Aggri had to be deported to Sierra Leone. His insubordination was attributed by local officials to the intrigues of discontented townspeople and to the influence of the 'so-called scholars and petty Native lawyers who cling like leeches to the skirts of the more ignorant kings, giving great trouble and causing discontent'; but 'who could not govern for a week in our absence'.¹

The second episode was the attempt of the Fantis to give themselves an independent representative form of federal government. They held a convention at Mankesim towards the end of 1871 and drew up a constitution, which, apart from its obvious impracticability in existing circumstances, aroused suspicion because it appeared to be specially designed to secure a controlling influence to these 'so-called scholars and petty Native lawyers'. While the President of the Federation was to be a chief, the Vice-President was to be an 'educated Native', who, with the Secretary, the Under-Secretary, the Treasurer and the Assistant-Treasurer, all presumably educated, formed the ministry, which alone could initiate legislation and make appointments. The Legislative Assembly was to be composed of two nominees of each chief, one of whom was to be an 'educated Native', with

¹ P.P. 1867, xlix. Judge Hackett's letter 22 May 1865, Col. Coran's dispatches 23 Oct. 1865, 7 April 1866.

the Vice-President in the chair. Every October a sort of general meeting of the confederacy was to be held to review the business done during the preceding twelve months and to discuss the programme for the ensuing year. The authority of the British Government was to be confined to the castle and the forts.¹ C. S. Salmon, who was at this time Administrator of Cape Coast Castle, rather hastily concluded that the movement was treasonable and arrested its promoters. The British Government, on the other hand, was not unsympathetic. It had no wish to discourage efforts of the Fantis to improve their government, but it asserted its right as protecting power to be consulted.²

This reassertion of protectorate rights on the part of the British Government was not in essence incompatible with the withdrawal approved by the 1865 Committee, for the Committee had recognized that some time must elapse before the protected Natives could be left entirely to themselves. How long that period should be it could not say. Pine, after his experience on the coast, estimated it at not less than a century. If this opinion were true it meant, in effect, postponing indefinitely the withdrawal favoured by the Committee. It also meant that interferences in the internal affairs of the protectorate would continue to multiply as they had in the past. Already a new colony had been created, 'not without some reluctance', at Lagos in 1861, because it was considered to be indispensable to the suppression of the slave-trade in the Bight of Benin.³ Furthermore, it was becoming increasingly apparent that European powers interested in Africa could no longer be content with owning isolated coastal forts interspersed among establishments of other powers. However possible a mixed dominion might be on the coast it was not possible to apply it to the interior. Great Britain had already acquired the Danish forts. It now

¹ Caseley Hayford, *Gold Coast Native Institutions*, pp. 327-40; *P.P.* 1873, xl ix. 3-7.

² *Ibid.* 13-14. Lord Kimberley's dispatch 16 Jan. 1872.

³ *P.P.* 1862, lxi. 345. Lord John Russell's dispatch 22 June 1861.

purchased the Dutch, the preamble of the Convention transferring them declaring that:¹

'the mixed dominion exercised on the coast of Guinea by Great Britain and the Netherlands has occasioned to the Native populations much harm . . . the remedy for which is not to be expected until the two Powers shall carry out with regard to their respective possessions the principle of abstaining from or giving up mixed dominion or mixed possession.'

Finally, the sixth Ashanti war settled the question for good. The cost of the war in men and money was so large that the Government could not evade its implications. 'As the Fanti chiefs had been raised from the abyss of misery and defeat, so Her Majesty, as their deliverer, is entitled to require of them a greater degree of deference and conformity.'² Hence the powers now assumed included the administration of both civil and criminal justice, the maintenance of an armed police force, full legislative authority, but with due regard to Native law and custom, and the imposition, with the assent of the chiefs, of sanitary rates in the Native towns. Domestic slavery was declared illegal. The constitutional basis of the new régime was another indication of its greater directness. Hitherto British authority had depended upon treaties. It was now asserted by proclamation.³

3. *Nigeria*

Nigeria owes its origin to the Senegal and Niger rivers being the most convenient means of access to the interior. Their headwaters converged to within a few miles of each other and they formed as it were the northern frontier of the countries with which Europe had been trading. The French, under the leadership of General Faidherbe, had already established themselves along the whole length of

¹ Hertslet, ii. 677. Convention of 25 Feb. 1871.

² P.P. 1875, iii. Correspondence relating to the Queen's Jurisdiction on the Gold Coast.

³ Proclamation 12 Sept. 1874. P.P. 1875, iii. Lord Carnarvon's dispatch of 20 Aug. 1874.

the Senegal before 1864, and had planned to connect its upper reaches with the Niger by a line of posts, a project that was not accomplished until 1883 by General Gallieni.¹ At the same time French trading interests became active on the lower waters of the Niger with which Great Britain already had an historic connexion. As early as 1832 the confluence of the Niger and the Benue rivers had been the objective of M'Gregor Laird's expedition to open up direct communication with the interior of Africa and to establish a permanent settlement. Of the forty Europeans who accompanied him only eight survived. The same site had been fixed upon for the model farm which the ill-fated Niger expedition had intended to found in 1841. Here also Dr. Baikie had established his trading station in 1854, collecting the town of Lokoja around him, where, after his death in 1864, a British Consul was maintained until 1869. The French intrusion into this arena of British activity was countered by George Goldie Taubman (afterwards Sir George Taubman Goldie), who arrived on the river in 1877. He persuaded the various British commercial interests to combine and form the National African Company to buy out the French. Hence when the Berlin Conference met in 1885 Great Britain's exclusive position on the lower Niger was admitted and she was made responsible for applying the regulations covering its navigation. In the following year Goldie's company became the Royal Niger Company, having its administrative capital at Asaba and its military head-quarters at Lokoja.

A European administrative capital inland and not on the coast was a remarkable innovation, and Asaba was the first place to be thus honoured since San Salvador had been the capital of the Portuguese Kingdom of Kongo.² A second striking novelty of the new era was the terms of the treaties with chiefs by which all European powers now established their claims to African territories. The Royal Niger Company negotiated over three hundred and

¹ See next chapter.

² *The Atlantic and Slavery*, Part I, cap. iv (1).

forty agreements in ten different forms, all but one with one chief ceding to it all sovereign rights over the territory it referred to. The single exception conveyed the sole right to grant trading, mining, and farming concessions. On its part, the Company in all the treaties undertook to respect existing property rights and not to interfere in Native customs and laws except in so far as was necessary for good government. Such wholesale transfer of sovereignty by treaty was open to the objections that few if any of the chiefs can have rightly comprehended the full import of the documents they attested by their marks, and that if they did understand it they had no constitutional authority thus to surrender sovereignty over their peoples' territories.¹

From another point of view, the treaties were expedients for legalizing an assumption of sovereignty supported neither by conquest nor by prescription. They short-circuited the process through which, elsewhere on the coast, protectorate powers had gradually become by the force of circumstances sovereign administrators. They have been justified by the subsequent history of the territories covered by them. A third innovation arising from the company's accession to sovereignty was a radical departure from the long-established trading principle that the coastal Natives should be the middlemen between Europeans and the interior tribes. The British had exercised a protectorate over the coast from the Rio del Rey in the east to the border of the colony of Lagos in the west since 1872.² It was under Consular jurisdiction and trading on it was carried on in the customary way. But in 1891 the Company was given control over the coast between the rivers Nun and Forcados and established a port of entry at Akassa on the Nun. Thus it secured direct access from the coast to the interior. A break with the old system was inevitable. In the past it had been the

¹ Hertslet, i. 450-79. See Lord Lugard, *The Dual Mandate in Tropical Africa*, pp. 10-17, on the subject of the treaties.

² Order-in-Council, 21 Feb. 1872; Appendix E of A. C. Burns, *History of Nigeria*; Ifor Evans, *The British in Tropical Africa*.

cause of wars between the interior and the coastal tribes. It placed the latter in a privileged position which, whatever its convenience for conducting the slave-trade, was now an anachronism. But in its place the Company set up another monopoly, by which it was able to require that any trader going inland to its territories should call at Akassa to pay duties and licences. The Natives of Brass, the adjoining country to the east, naturally resented this interference with their long-established trading prerogatives and in 1895 attacked Akassa and burnt it to the ground. The violence of the protest did not lessen the justice of the grievance that excited it. The Brassmen had been deprived of an ancient customary right without being either consulted or compensated.

In 1900 the Company's political functions were taken over by the Imperial Government and its territories were added to the coast protectorate. We shall have occasion in the last chapter to allude to the system of Native administration that was developed in them. Meanwhile we must bring the history of the French in Senegal up to date.

CHAPTER IV

SENEGAL

1. The Gum Trade

IN the last volume we brought the history of the free Negroes of St. Louis down to 1783 when they again became French subjects. At this time the two largest exports from the River Senegal were slaves and gum. But when the Constituent Assembly in Paris abolished the slave-trade in 1792, gum became the leading product. The trade in it was conducted in accordance with the regular African custom by which European merchants bought from the Native traders, that is to say from the free Negroes and Mulattoes of St. Louis, who claimed a monopoly of the right to barter the 'pièces de guinée',¹ which the merchants imported from France, for the gum which the Moors brought to the trading-posts on the right bank of the river. So long as the merchants confined themselves to their proper function the traders continued to prosper; indeed the Abbé Boilat, who was himself a Negro of St. Louis, describes them as 'à l'aise, l'or brillait au cou, aux oreilles et aux bras de leurs femmes, de leurs filles, de leurs nombreuses servantes'.² Their prosperity suffered only when later on the merchants broke away from the African custom and competed with them in buying the gum on the river. But this did not happen until after experiments in turning Senegal into a plantation colony had been tried and failed.

During Napoleon's Consulate and Empire the development of agricultural settlements and of plantations of cotton and indigo and other tropical products was from time to time recommended to Governors of Senegal, and a number of private experiments were initiated. But all

¹ 'Pièce de guinée' was a blue cotton fabric, manufactured in Pondicherry and France, and the principal French import into Senegambia.

² *Esquisses Sénégalaises*, p. 210.

were without permanent results. Then in 1814 'La Société Coloniale Philanthropique' was formed to exploit the Cape Verde Peninsula with the co-operation of its Native inhabitants. It appeared to be the most promising locality for the inauguration of a new era in the history of Senegambia. Formerly a part of the Damel of Cayor's territory, it had been acquired from him by the French as long ago as 1787. But they had done nothing with it. Since then its inhabitants had revolted against the Damel and had become, according to General Maxwell, 'an independent republic'.¹ He estimated their numbers in 1812 at 8,000, and he described them as being 'in that state of simplicity, ignorance, poverty and equality of condition in which only a republic can exist'. Owing to their contact with Europeans, their behaviour, so Maxwell declared, was more in conformity with European ideas, and their manners were milder than were those of the other Senegalese Natives. They seemed in every way suitable material for an experiment in economic assimilation, and in 1817 the society dispatched two hundred French emigrants to start work amongst them. But the French Restoration Government had other plans in view. Its leading personality on colonial questions was Baron de Portal, who had been greatly impressed by the Dutch system in Java. He forbade the emigration of any more settlers, and, to use his own expression, set about to 'transformer, si possible, le Sénégal de comptoir de traite en colonie de culture'.² The gum trade would be a useful subsidiary to the larger project. The Government therefore proposed to organize it, and appointed Julian Schmaltz, who had served in the Dutch East Indies, to carry out their programme 'uniquement par voies de douceur et de persuasion'.

The Dutch system in Java, it will be remembered, de-

¹ Maxwell was Lieutenant-Governor of Senegal and Goree after they temporarily became British in 1809. See below, p. 50. P.R.O. CO/267/29. The colony was restored to the French in 1816.

² C. Schefer, *Instructions générales données de 1763 à 1870 aux gouverneurs des établissements françaises*, p. 229.

pended upon maintaining the Native authorities in their positions and using them as intermediaries through whom 'contingents' and 'forced deliveries' were collected.¹ The plan Schmaltz recommended for Senegal was not quite the same. As soon as he arrived at St. Louis he formed an extravagantly optimistic opinion of the future of the country where he found cotton and indigo growing wild. The climate, he declared, was salubrious, the Natives anxious to be industrious. He therefore recommended that French emigrants, having a minimum capital of 5,000 francs, should be brought out; that they should be given land, ceded by the chiefs in return for annual customs; and that they should employ Native labour supplied by the chiefs and paid according to conventions concluded with them. It was on this point of putting on the chiefs the responsibility of providing the labour that the plan resembled the Dutch system in Java. Schmaltz contemplated also settling the free Negroes of St. Louis and of Goree on the same terms as the emigrants and supplying them with labour by the same means. But they were not attracted by the prospect, and indeed looked upon all white settlement with suspicion:

'Redoutant au lieu de désirer l'arrivée de colons européens, de la part desquels ils se croient menacés d'un avilissement dont ils n'ont point l'habitude, et qui serait semblable à celui qui, dans les Antilles, résulte du préjugé des couleurs.'²

Schmaltz was in France when his plan was adopted by the Government, and he returned to St. Louis to put it into operation. He decided to start with the land on the left bank of the Senegal river below St. Louis, and in May 1819 a treaty was signed with the Brac of Oualo establishing a fort at Dogana and transferring to the French Government in perpetuity 'all places where it wished to establish itself', in consideration of an annual custom of 10,358 francs.

¹ See *Native Education*, chap. vii (1) and also p. 166, for the influence of Dutch experience on French policy in Cochin China.

² From a private letter written from St. Louis in 1820. See *Instructions générales*, p. 320.

No sooner was this treaty concluded than the Government began to have doubts on Schmaltz's capacity as an Empire builder. He had himself reported that the Oualo country was infertile and yet he now proposed to make it the centre of his operations. Moreover, the treaty with the Brac had caused hostilities with the Trarza Moors, north of the Senegal river, who claimed to have suzerain rights over his country, and who were joined by the Brakna Moors, whose strength Schmaltz had underestimated. At the same time the Chamber of Deputies in Paris was reluctant to vote the money required to finance his schemes, which were estimated to cost a million francs the first year, three million the second, and eleven millions in seven years. De Mesley, a naval officer, who made an expedition up the river, returned with a report differing widely from Schmaltz's on the subject of the climate, on which one would have thought the Government would have already had some knowledge from past experience, and on the labour supply and its quality. He suggested that Native policy should be confined to the old traditional lines of maintaining diplomatic relations with the chiefs, giving them occasional presents and keeping down military expenditure. The Government was inclined to agree. It sent out Captain de Mackau to report, and on his recommendation decided to advance neither cash nor goods to European or African settlers, to be satisfied with influencing the Natives by showing them what good government meant, and to allow no engagement of labour otherwise than by free recruiting and on conditions safeguarding the liberty of the Natives. Schmaltz was recalled in July 1820, and Portal abandoned what he now described as 'la colonisation militante et fortifiante'.

Soon afterwards the Ministry fell and Portal was succeeded by the Marquis de Clermont-Tonnerre, who was almost as active a supporter of colonization as Portal had been before his unfortunate experience with Schmaltz. The decision to abandon the colonization of Oualo was reversed, more particularly as the Trarzas, in return for

the payment of an annual custom, ceded their suzerainty over it by a treaty of 7 June 1821. By these treaties of May 1819 and June 1821 Oualo became a French protectorate, subject to the right of Frenchmen to become landed proprietors in it, and subject to the qualification that once a property had been in French hands it could in no circumstances revert to the Brac.¹ The treaties stipulated, however, that if a European holding included some land occupied by Natives, the settler should inform the Governor, who would decide the matter by paying an indemnity for it. Thus Governor Gerbidon writing on 28 September 1827 insisted that:²

'le droit d'établir des cultures qui nous a été accordé par le traité de 1819 n'a jamais pu être celui de s'emparer sans dédommagement des propriétés particulières.'

The cession to the French of the Trarza claims did not affect this position nor add to the French Government's rights. Nevertheless, the treaty of 1819 put the whole country at the disposal of the French if they chose to fill it with colonists and pay compensation for the disturbance caused to Native occupiers. And this seems almost to have been the desire of the new Colonial Minister. He appointed Jacque François Roger to be Governor and in his instructions to him impressed on him that:

'Coloniser est le grand but de votre mission. Le reste de vos fonctions, toutes importantes qu'elles sont, peut en quelque sorte n'être considéré que comme un moyen d'arriver à cette fin essentielle.'

Premiums were offered to encourage the export of indigo and cotton. Agricultural implements, seeds, and live stock were issued to the free Mulattoes and Negroes of St. Louis to attract them from commercial to agricultural pursuits. Agricultural experimental stations were established. The country was to be a centre of agricultural

¹ Convention of 5 Dec. 1827. Sabatié, 'Le Sénégal. Sa conquête et son organisation', p. 341.

² *Annuaire et mémoire du comité historique et scientifique de l'Afrique française*, 1916, p. 204.

progress, and also a refuge for Natives anxious to escape from their chiefs. Furthermore, those parts of it which were occupied by the French were divided into four cantons each under a head appointed by the Governor.

The people of St. Louis did not fall in with these plans. They declined to become agriculturists, or they became so only to draw the Government premiums. They were not at all attracted to plantation labour. They were unwilling to change their habits. Moreover, the relentless hostility of the Trarzas was another impediment to success. In 1833 their chief married the daughter of the Brac of Oualo, and by so doing undermined the treaty of 1821. Two years of warfare followed. They ended in the Trarzas renouncing all claim to the Oualo succession, but also in all the plantations being abandoned. And so this last effort to colonize Senegal was as profitless as were its predecessors.

The failures of the plantations restored the gum trade to its primary position in the economy of Senegal. Its importance thereafter can be gauged by the following figures in kilos of the quantities exported to France:¹

| | | | | | |
|------|---|---|---|---|-----------|
| 1825 | . | . | . | . | 1,266,961 |
| 1830 | . | . | . | . | 2,413,207 |
| 1835 | . | . | . | . | 2,745,620 |
| 1840 | . | . | . | . | 2,482,759 |
| 1845 | . | . | . | . | 3,506,673 |

The increase was accompanied by a corresponding growth of imports from France. They more than trebled between 1828 and 1838. They then declined in sympathy with the gum trade between 1839 and 1843, but recovered with the bumper year of 1845. The increases did not exclusively benefit the St. Louis Negroes, who had previously enjoyed the monopoly of dealings with the Moors. They now had to reckon with the competition of the merchants, and of any Africans whom the merchants chose to employ or to finance. In 1837 the army of traders had grown to 3,000, and the number of

¹ *Notices statistiques.*

boats on the river had doubled. 'Il n'y a plus d'ouvriers, tout le monde traite.'¹ Writing later, Boilat bemoans the consequent impoverishment of his fellow townsmen of St. Louis:

'Autrefois cette traite était comme une source intarissable où les habitants prisaient, sans beaucoup de peine, des fortunes colossales. . . . Depuis quelques années le nombre des traitants s'est multiplié d'une manière prodigieuse, tous jusqu'aux marabouts vont à la traite, et la quantité de gomme, qui enrichissait le petit nombre, ne pouvant suffire à tant de commerçants, a fait naître une malheureuse concurrence.'

In order to avoid the evils of over-competition, the Government had somehow to satisfy the conflicting interests of the old St. Louis traders, the merchants and the new traders. The old traders were prepared to join an association to control prices and limit the season of trading if the merchants and the smaller upstart traders were excluded from it, while the merchants and the newer traders demanded free competition. This was given to them in 1826, but had disastrous effects on the price of both gum and 'pièces de guinée'. As a remedy, the Government in 1832 organized a 'voluntary convention' of the inhabitants of St. Louis who had been in the trade for at least three years, and guaranteed them against official interference, as long as they maintained the price of guinea cloth above a certain figure. The merchants naturally objected to being thus excluded and appealed to Paris; and until 1848 the conflict between the two interests raged incessantly, the Government shifting almost annually between control and free trade, or some combination of the two. That the St. Louis traders were able to hold their own against the merchants, who had the ear of the Government in France, is a tribute to their standing and influence. In spite of their present comparative poverty, they were still, as Governor Chaumasson remarked in 1839, 'l'aristocratie des indigènes, dévoués du cœur et d'âme à la France'.

¹ Georges Hardy, *La mise-en-valeur du Sénégal*, pp. 262, 264.

2. *The Protectorates*

In one respect, however, the situation in St. Louis had changed. The treaty of capitulation to the British in 1758 had specially safeguarded the Roman Catholic faith of the inhabitants. It had been so well established that the first British military Governor had suggested appointing a French Huguenot minister, financed by the Society for the Propagation of the Gospel, in order to weaken it. But since then an Islamic movement had penetrated into Senegal as far south as Baol. It had brought Oualo under the suzerainty of the Trarzas. It had caused the downfall of the Siratik with whom the French had formerly had so many dealings. It had given the control over the Native states of Dimar, Toro, Fouta and Damga to a Muslim Almamy of Fouta. It had swamped the Christianity of St. Louis, with the result that the articles of surrender to the British in 1809 had protected only the peoples' property and political opinions without mentioning their religion.¹ The omission was symptomatic of a change in the outlook of the French Government. The *ancien régime* had accepted baptism as an adequate qualification for full French status without any other formality or letters of naturalization.² The nineteenth-century equality knew no religion. Its most advanced exponents were willing to make citizenship available to all indiscriminately. Its more moderate disciples accepted unquestionably only those who were French citizens by birth and classified the remainder as subjects who could attain to citizenship only by undergoing a process of naturalization depending upon the fulfilment of certain conditions.

The first step in the direction of admitting Senegalese to citizenship was a product of the Revolution of July in France. A law of 1833 enacted that any person born free or having legally acquired his freedom should be capable

¹ P. Marty, *Études sur l'Islam au Sénégal*, pp. 6-9. See *The Atlantic and Slavery*, map on p. 77 and pp. 52-3, for the position under the treaty of 1758. P.R.O. CO/267/33 for the treaty of 1809.

² *The Atlantic and Slavery*, p. 206.

of all civil and political rights under conditions prescribed by law. The colony of Senegal at that time consisted of St. Louis and Goree, hence only their inhabitants were affected. Moreover, for them it was but a gesture, at any rate so far as concerned the political rights, for no law was passed giving them any opportunity to vote. A 'Conseil Général' was established in the colony in 1840, but its members, two of whom were traders of St. Louis, were all nominated. Then the revolution of 1848 gave the colonies representation in the Paris parliament, and by an instruction of the National Assembly of 27 April 1848 Senegalese who had resided for not less than five years in St. Louis or Goree were made eligible for the franchise. But they were baulked of the vote by the second Empire abolishing colonial representation.

The other policy of limiting citizenship to born Frenchmen and regarding other nationals of the French empire as subjects was advocated by MM. Carrère and Holle who published a book on Senegambia in 1855. They criticized the reforms of 1833 and 1848 as nothing but weak concessions to Islam. In the past France, like Spain and Portugal, had expected that her language should be spoken in her colonies. The people of St. Louis, Carrère and Holle complained, neglected to do so. No Muslim child ever attended the two French schools because their curricula had to include religious instruction. Consequently they never learnt any French. None of the inhabitants used the French language, and the town was overrun by alien marabouts who undermined French influence and prestige. As a remedy they urged the Government to open schools where the children would be obliged to learn French but be exempt from religious teaching. They suggested that all Africans employed by the Government should be required to dress like Europeans. They protested against a proposal to establish a Muslim court lest it should encourage the faithful to be a distinct and separate society. The Negroes of St. Louis, they contended, should be impressed with the sense of being French subjects, 'held to an unrestricted obedience',

who could not become citizens until they had qualified themselves for that status by abandoning their non-European customs and adopting the French. Finally, they advocated a 'politique de fleuve', meaning thereby that the Government should assume direct control over the Senegal river and cease to pay customs to the Moors.¹

At the time when this demand for a more rigid observance of assimilative practices was made, the French had to face the failure of the gum trade owing to the falling off in the European demand. Its collapse after 1850 revived the problem of widening the colony's economic basis, which could be done only by developing and expanding French interests in it more actively. The alternative was to abandon the colony altogether. The problem was referred to a departmental committee in Paris, which advised against withdrawal, and in favour of expansion; and when General Faidherbe became Governor in 1854 to carry out the new policy, the foundation stone of modern French West Africa was laid.

Faidherbe was not an assimilationist of the school of Carrère and Holle. He did not bother about the dress of his African employees. He had no objection to the Muslim faith and the Koranic law. By a decree of 20 May 1857 he secured the enjoyment of them to all who wished it. The two points he insisted on were loyalty to France and the use of the French language. 'Vous êtes français', he told the people of St. Louis, 'parlez donc français', and he established a secular school to teach it. He actively promoted economic development, introducing the culture of the ground-nut by the Natives themselves as an export crop in the place of gum. In thus combining tolerance of non-European customs, on condition that their observers were loyal to France and learnt the French language, with an active 'mise-en-valeur' of the country, he was the initiator of the policy that became known as the 'politique d'association' as opposed to the former 'politique d'assimilation'. On the question of expansion he was, of course, a strong exponent of Carrère and Holle's

¹ Carrère et Holle, *De la Sénégambie française*, pp. 356-64.

'politique de fleuve'. He rapidly consolidated French authority on the Senegal river, confining the Moors to the North bank and bringing the states on the South bank under control. He separated Dimar, Toro and Damga from Fouta and bound each by a treaty. At the same time he made treaties with Bondou and Bambouk, securing him control over the river as far as the highest navigable point at Khayes and the right to establish posts on the river Falémé.¹ His 'river posts' placed at intervals along the Senegal were designed to be centres to which Natives might be attracted and where they might be settled in villages under reliable chiefs through whom French influence, 'radiating from St. Louis', would become really conducive to progress.² The 'École des Otages', which he founded at St. Louis for the sons and relatives of chiefs, was another instrument to the same end. It was not designed to train them to be chiefs in the altered circumstances, but to fill administrative posts, to be interpreters and schoolmasters, traders and agriculturalists. The 'tirailleurs sénégalais', without whom his campaigns would have been almost impossible, and many of whom prided themselves on being French, were also influences in the same direction.³

In 1857 Faidherbe began to lay the first foundations of the administration of the enlarged colony by creating three 'arrondissements' of St. Louis, Goree and Bakel. The areas in which they were situated were 'pays possédés' or annexed territory, from which, when the system was fully developed, French control was exercised in three different grades of directness. A Native territory included in the first grade was a 'pays d'administration directe', which was equivalent to annexation. Oualo, for example, was in this category and was attached to the arrondissement of

¹ Treaties 18 June 1858 with Dimar, 10 Apr. 1859 with Toro, 15 Aug. 1859 with Fouta, 10 Sept. 1859 with Damga, 18 Aug. 1858 with Bondou and with Bambouk.

² Schefer, ii. 284 et seq.

³ Cultru, 357, 364; B. H. Gausseron, *Un Français au Sénégal*, p. 74; Haurigot, *Le Sénégal en 1887*, p. 180.

St. Louis. The dynasty of the Bracs was terminated, and the country was divided into five 'cercles' under five Native chiefs appointed by the Governor and called 'chefs de cercle'. In 1863 the Native states of Damga and Bondou were also for a time placed in this class and attached to the arrondissement of Bakel. The second grade of Native territory was the 'pays de protection immédiate'. Although still a protectorate it was little removed from annexation as its chiefs were appointed by the Governor and it could be subjected to taxation. The third grade was the 'pays de protectorat uniquement politique'. In it the chiefs were not appointed by the French but were only subject to their approval, and no taxes could be imposed.¹

As the new forward policy developed, the centre of French influence shifted southward from St. Louis to Dakar, which Faidherbe founded in 1863. The Saloum river was reached by treaties made with the Native states of Baol, Sine, and Saloum in May 1859, and the trade of the territory between that river and the Senegal was obviously more conveniently done through Dakar than through St. Louis. Moreover, Dakar did not suffer from the inconvenience of a sand bar and was accessible to shipping at all times. The falling off in the demand for gum and the growing output of ground-nuts² also diverted business southwards. Hence Dakar became the centre of the Senegal railway system and eventually the capital of federated French West Africa. This southward trend increased the importance of the Native state of Cayor, for it was the immediate hinterland of Dakar as Oualo was of St. Louis. Moreover, it was well suited to the production of ground-nuts and other commodities, and it commanded the land communications between Dakar and St. Louis. The history of its relations with the French affords an example of the evolution of a 'pays de protectorat uniquement politique' into a 'pays d'administration directe'.

¹ E. Petit, *Organisation des colonies françaises*, i. 23.

² The export of ground-nuts in 1840 was 1,210 kilos. In 1887 it was over forty million kilos. Haurigot, 201.

The first step was a treaty made with Damel Macadou in February 1861, transferring the coast between the Senegal river and Cape Verde to the French, but leaving the Damel to govern the remainder of his territory, provided he did it wisely. The treaty, and especially its proviso, were the precursors of rapid changes. By the end of July Macadou had displayed his inability to govern wisely and was dismissed. The French then, by intervening to secure the appointment of one Madiodio in his place, converted the country into a 'pays de protection immédiate'. Madiodio, however, retained office only a year, being driven out in July 1862 by Lat-Dior, the leader of a nationalist movement. Him the French agreed to recognize as Damel upon his undertaking to allow them to build military posts in his territory. But the first attempt to exercise the right was resisted; and so Lat-Dior was ejected and Madiodio restored, but only on condition of his recognizing French suzerainty and ceding certain parts of the country, including N'Diambour near St. Louis, to the French.¹ His chances now of making good were obviously smaller than they had been in 1861. Lat-Dior was still at large, and the terms imposed on Madiodio were not such as to assist him in upholding French authority. His second failure ended in Cayor becoming in 1865 a 'pays d'administration directe'. It was divided into cantons and administered through chiefs appointed by the Governor and invested with green cloaks as symbols of their dignity.² The new Government's difficulties were enhanced by outbreaks of small-pox, stock disease, cholera and famine, which were at their worst in 1868. Moreover, as frequently happens during such visitations, a prophetic Muslim of Toro, named Amadou-Sekou, took advantage of the people's distress to declare himself their saviour and to promise immunity to his disciples. At the same time the partisans of Lat-Dior began to agitate for his return;

¹ Treaty of 4 Dec. 1863.

² *Annales sénégalaises*, cap. ix. In the year before the annexation, a Convention of Oct. 1864 had bound Saloum, Sine, Baol, Cayor, Djalof and the French in a treaty of mutual guarantee against an aggressor.

and, when he outwardly submitted to French control, the Governor appointed him in April 1869 to be a 'chef de canton', hoping thereby to placate his party. But no sooner was he installed than he rallied his followers and obliged the French to send a punitive expedition against him. Its failure and the outbreak of the Franco-Prussian war caused the reversion of Caylor in January 1871 to the status of a 'protectorat uniquement politique', Lat-Dior being restored to the Damelship, on condition of his observing the treaty of 1861.¹ At the same time Dimar and Toro were also disannexed subject to their continuing to observe the treaties of 1858 separating them from Fouta.

This return to the situation as it had been ten years before was but a temporary pause, lasting until expansion was restarted by Gallieni in 1880. Then once more did it become necessary to reopen negotiations with Caylor in order to build a railway from Dakar to St. Louis, and so link Gallieni's line of communication by the Senegal river with Dakar. Accordingly, in the more amicable atmosphere existing since 1871 and still further improved by the death of Amadou-Sekou in 1875, a new treaty was negotiated in 1879. By this the French guaranteed that they would defend the country if it were attacked, while the Damel consented to the railway being built and undertook to find labour for it at rates of pay and rations stated in the treaty. Nevertheless, in spite of his assent, he resisted the survey for the line at the very time when Gallieni was setting out on his adventures. He was therefore again deposed; and a treaty with his successor gave the French the right to construct roads, railways, telegraph lines, and fortified posts anywhere. But still Caylor was not yet 'un pays de protection immédiate', for the Damel was not appointed directly by the French, although subject to their approval.² The same position arose in N'Diambour under a treaty of February 1885 making it

¹ Treaty 12 Jan. 1871.

² Treaties 10 Nov. 1879 and 1883 with Caylor, *Annales sénégalaïses*, caps. ix, xiii, xv.

an independent province under the protectorate and suzerainty of France. Its customs and institutions were unchanged. The 'Bour', or paramount chief, retained all his rights, so long as he ruled with justice. His jurisdiction extended even over disputes between Frenchmen and Natives, although in such cases there was a right of appeal to the Governor in Privy Council. His successor was to come from his family according to Native custom, his accession only being subject to French approval. But France had authority to build roads, railways, military posts, and so forth anywhere and take whatever action might be necessary to protect them. They and the other Native states bound to France by treaty remained 'pays de protectorat'. Nevertheless, under pressure of economic and administrative progress the element of alliance in their relations with France was eliminated and their peoples became subjects whose territories were 'pays de protection immédiate'.¹

Shortly before the protectorate Natives began to acquire the status of French subjects, the third Republic restored colonial representation and so revived the franchise right of the people of St. Louis and Goree that had lain dormant since its creation in 1848. After 1871 all adult males who had resided five years or more in the two towns, could become voters for the return of a member for Senegal in the Chamber of Deputies. From this exercise of political rights in the national domain there followed as a matter of course the privilege of sharing in all local elections—for the 'Conseil Général du Sénegal' established in 1879, and for the municipal councils of St. Louis (1872) and Goree (1872). When Dakar and Rufisque were afterwards given municipal councils, in 1880 and 1887 respectively, their peoples also were admitted to the electorate on the same generous terms.

¹ Sabatié, Part V, caps. ii and iii; E. Petit, *Organisation des colonies françaises*, i. 23.

CHAPTER V

FRENCH POLICY

THREE was a certain historic fitness in St. Louis and Goree, composing as they did the old colony of Senegal, being singled out for special privileges. As relics of the old empire they might claim equal treatment with Martinique, Guadeloupe and Réunion. But the latter were islands, whereas the colony of Senegal resembled the five French dependencies in India in being a coastal possession with its hinterland under other sovereignty. Had it remained thus isolated its political privileges would have appeared less incongruous. But after it became the base of an expanding colony they were embarrassing. The 'Conseil Général' was required to vote the budget, or rather that half of it which was optional and not obligatory, and as the budget covered expenditure in the 'pays de protectorat' as well as in the 'pays d'administration directe', the voters of the four municipalities, or 'communes de plein exercice' as they were called, had the ultimate control without being responsible. The development of this situation caused the financial powers of the 'Conseil Général' to be progressively curtailed and the franchise of the voters to be restricted by judicial decisions. In 1890 the portion of Oualo that had been brought under direct administration and annexed to the 'arrondissement' of St. Louis, was disannexed and returned to protectorate status, and the division between the colony and the protectorate was defined.¹ Two years later the budget of the protectorate was separated from the budget of the colony and was thus removed from the purview of the 'Conseil Général', whose finances were still further depleted in 1904 by most of its revenue being diverted to the newly created budget of the Governor-General of French West Africa. The 'Conseil Général' unsuccessfully contested the legality of both these reforms in the hope of maintain-

¹ Reform of 15 Jan. 1890.

ing its control unimpaired. The administration then retorted by questioning the right of the Africans in the four municipalities to the franchise on the ground that they were not citizens but only subjects. The Court of Appeal decided in favour of the Africans, but at the same time ruled that an African voter, in order to qualify, must have been born in the town where he claimed to be registered and that he could poll there and nowhere else. Furthermore, the court ruled that his franchise did not confer French citizenship on him, he remained a subject although a voter. His status as such was emphasized again two years later (1910) when Frenchmen living outside the municipalities were enfranchised while the suffrage of the Africans was still confined to the towns of their birth. They thus became a distinct and isolated class of hereditary voters whose franchise was valid in one place only and who in other respects were not French citizens. Their political predominance, for they outnumbered the French voters by more than five to one, not unnaturally aroused the jealousy of many Europeans who complained that they voted in groups under their chiefs, that they registered specially for elections and were polled by questionable means; and the result was the return of

‘les mulâtres qui constituent une puissance à St Louis où ils ont accaparés un grand nombre des emplois du gouvernement et tous les postes municipaux’.

This situation, due more to the accidents of French politics than to any appreciable colonial policy, was attacked by some observers as an example of the absurdity of assimilation.¹

‘Le noir, qui hier encore pratiquait l'esclavage, le noir ignorant et barbare, qui achète sa femme, ne connaît pas notre langue, ne sait rien de nos moeurs, le noir vote.’

It was, however, contrary to the principles of assimilation that the privileges of French citizenship should be conferred

¹ L. Sonolet, *L'Afrique Occidentale Française*, 1912, pp. 13-14.

on any one who had not become qualified for them. To pass from the status of a subject to citizenship required naturalization and until 1912 there was no means by which the passage could be effected in French West Africa. The naturalization law of that year filled the gap, and by its conditions indicated what the standard of assimilation now was. An applicant was required to be of full age, to have given proof of attachment to French interests by service of at least ten years in some public or private employment, to have learnt to read and write French and to have adequate means of support. Having satisfied the local authorities that he fulfilled these conditions, his claim was transmitted to Paris and could be granted by the President of the Republic if recommended by the Ministers of the Colonies and of Justice.¹ Very few West Africans went through this elaborate process, for, apart from its complexity, the acquisition of French citizenship involved submission to French law, a sacrifice that the Muslims of Senegal, whose religious and legal status had been guaranteed by the decree of 20 May 1857, were not willing to make. Their right to the enjoyment of their faith and its law was their 'statut personnel' and they expected to be allowed to retain it even if they became citizens. Moreover, the request seemed reasonable to many Frenchmen. To require the abnegation of a religion as a condition of citizenship savoured too much of the ecclesiastical particularism and intolerance of the *ancien régime*. 'Naturalisation dans le statut' was more in accord with modern conceptions. It meant accepting as citizens those who, though still adhering to Muslim customs, were otherwise qualified. But the African voters of the four municipalities succeeded in getting even more than this. In 1914 they elected one of their own number, M. Blaise Diagne who was Mayor of Dakar, to be the representative of Senegal in the Chamber of Deputies. He was successful in French politics and became under-secretary for the colonies. In 1916, through his own

¹ Naturalization was easier for subjects decorated with the Legion of Honour, or with a military or colonial medal.

influence and under pressure of the demand for war recruits, he secured the promotion of his constituents to full citizenship, regardless of whether or not they fulfilled the conditions of the naturalization law.

Four years later (1920) the 'Conseil Général' was abolished. Its position as being representative only of the colony and yet having some control over the protectorate called for reform. Accordingly the protectorate and the colony were reunited into one territory with one budget and placed under a Colonial Council representing the citizens and the protectorate chiefs in equal numbers, thus depriving the African citizens of their control. For electoral purposes the whole territory was divided into four districts each returning a stated number of citizens and chiefs,¹ the former being elected as heretofore and the latter being chosen at meetings summoned and presided over by the local Administrator. Only chiefs recognized by the Government and able to speak French were eligible. The Council in this form is still in being. Its powers are advisory, legislative, deliberative and budgetary. It may tender advice on any subject submitted to it by the Lieutenant-Governor. It may legislate on certain specified subjects. It can deliberate on five others, the most important of which refers to the incidence of taxation, but its decisions are not effective unless approved by the Lieutenant-Governor. Its powers over the budget are the same as were those of the 'Conseil Général'. It cannot initiate expenditure. If it fails to pass any item of obligatory expenditure, the Lieutenant-Governor can restore it from the optional expenditure over which the Council has control. In practice, however, this has resulted occasionally in the Council's reductions of obligatory expenditure being accepted by the Government which preferred to do

| | | | | Citizens | Chiefs |
|-------------------------------------|---|---|---|----------|--------|
| River district. | : | : | : | 6 | 4 |
| Railway district | : | : | : | 8 | 8 |
| Sine-Saloum district | : | : | : | 5 | 7 |
| Casamansa district | : | : | : | 1 | 1 |
| Decrees 4 Dec. 1920 and 5 July 1921 | | | | 20 | 20 |

so rather than reduce optional expenditure of which it approved. Moreover, the African citizens regained their old control to some extent in 1925, when the representation of the chiefs was reduced to sixteen and that of the citizens was raised to twenty-four.¹

The political situation we have outlined above is confined to Senegal. It has not been, and is not likely to be, extended to any of seven other dependencies now forming federated French West Africa. It may be described as normal in its acceptance of the commune as the unit of organization. It became abnormal and embarrassing only after it had been allowed to develop too rapidly and indiscriminately. Elsewhere in French West Africa a more prudent approach is being made to the political problem. It provides for three grades of communes known as 'communes mixtes'. In the first, or the least advanced, a municipal commission is nominated by the Lieutenant-Governor. In the second, the commission is elected on a restricted franchise. In the third, it is elected on a universal franchise. Thus a community may pass through a gradual education in self-government and Africans may be 'progressively associated in the management of their own affairs'.² No commune of the third degree has yet been established. But over twenty of the first and second degrees are in existence. The qualifications for nominated membership and for the restricted franchise are the same. They include French citizens, all holders of the Legion of Honour and of military decorations, and French subjects (i.e. Africans), who may be either traders paying a licence fee of at least two hundred francs a year, property owners, or leading men selected by the Lieutenant-Governor.³

Both the Colonial Council and the Mixed Communes

¹ Girault, *Principes de colonisation et de législation coloniale*, Part II, vol. i, 379-80, 665-7; R. Buell, *The Native Problem in Africa*, i, cap. 59. There are approximately 49,000 'indigènes citoyens' in Senegal out of a population of 1,350,000. P. Lyautey, *L'Empire colonial français*, p. 170.

² Buell, p. 964.

³ Girault, II, i. 379/80, 665-7; Buell, i, cap. 59.

conformed to the 'politique d'association' originated by Faidherbe. Both citizens and subjects were represented in them by methods suited to their respective conditions. But these arrangements applied only to Senegal and to such centres of French influence as were capable of supporting independent budgets. The great majority of West Africans were unaffected by them. The widening expanse of Native territory as it came under direct French administration was divided up into circles, as Oualo had been, each under a military Commandant or a civil Administrator, according to its degree of administrative assimilation. Native authorities could not of course be dispensed with; but in appointing them more regard was paid to their acquired qualifications as servants of the Government than to their hereditary or customary right to be the governors or representatives of the people. M. Ponty, who became Governor-General of French West Africa in 1908 and retained the office until 1915, first drew attention to what he conceived to be the weakness of this policy. A Native administration, to be really effective, he argued, should be more closely associated with those whom it controlled. It should not unnecessarily offend against their customs, ignore their beliefs or overlook their superstitions. It should not be a 'politique de commandement' founded only on authority, but rather a 'politique de race', a guardianship expressing more intimate relations with its subjects and using their legitimate chiefs as its agents and intermediaries. It should not divide the country to suit primarily administrative convenience, but should take account of paramount chiefs where they existed, of smaller chiefs where Native society was more decentralized, and even of village chiefs where it was to that extent atomic. The change did not imply that French control would be weaker than formerly but that it would be exercised through more natural and customary channels. Thus, Governor-General van Vollenhoven, who followed soon after Ponty and who was a convinced exponent of the new policy, made clear that there could not be two authorities in a circle, the French

authority and the Native authority, there could be but one and that the French. 'Seul le Commandant du cercle commande', the chief was merely his instrument.¹ We may observe the same idea of greater elasticity in a speech delivered by Governor-General Carde in December 1926. Wherever Native governments were solidly rooted in tradition they should be used as instruments to guide the people towards progress. Elsewhere a people may have discarded the traditional structure and it may be necessary to restrain 'excesses and imprudences'. Elsewhere again no framework may have ever existed and the situation may call for contacts with embryonic cells or even with the individual.²

The theory was still further elaborated by Governor-General Brévié in four studies on Native administration published in 1932. He dismissed the abstentionist or protectorate policy of limiting interference as much as possible, as scarcely indistinguishable from a colour-conscious segregation.³ The opposite extreme of wholesale assimilation, such as had been practised in 1833, 1848, 1871, and 1916, was equally indefensible. The transformation of Native society must be gradual and continuous within the framework of African institutions. This was the 'politique de race'. To it must be added the 'politique d'association' to guide the uneven constituents of Native society along roads, which, though all converging on the same goal, must of necessity differ greatly in length. But 'association' alone was not enough. On the 'politique de races' must also be superimposed a 'politique d'élite', not for the purpose of producing 'des déracinés', but rather trained chiefs, judges, and notables within the African structure. Chiefs, therefore, should fill the double role of representing their people as well as being agents of the Government. The commandants of the circles should still alone command, but the chiefs should no

¹ Buell, i. 995-7; *Revue du monde musulman*, vol. xxxi; *Journal of the Royal African Society*, July 1933, p. 244.

² *L'Afrique Française*, Jan. 1927, Documents.

³ L. P. Mair, *Native Policies in Africa*, p. 189.

longer be merely their instruments. 'They will become again to a certain degree what most of them were before our arrival, chiefs, but chiefs animated by our thought, inspired by our desire to ensure a better future for the Natives and determined to accord us their active collaboration.' Brévié also favoured expanding the system of Councils of Notables that had been initiated in the cercles in 1919 with the object of encouraging a nearer approach of governors to governed. Their members were chosen by the local chiefs and leading men as the 'natural guardians of Native customs and traditions'. Their deliberations were confined to such matters as the Administrators submitted to them, but they had to be consulted on questions relating to taxation, corvées, trading licences and public works. On the other hand, service in them was expected to educate their members to become an 'élite', co-operating more closely and personally in the economic and financial life of the colony. Brévié proposed to add to them village councils and a superior council for each colony. But the members of the latter should not be elected. Instead, each council in turn, consisting as it would of the peoples' rightful representatives, should send its delegates to the higher.¹

The evolution of an African 'élite' attached to Native society yet co-operating more closely and personally in the economic and financial life of the colony was the object of these administrative reforms. There followed, in Brévié's opinion, a necessary adjustment of educational methods to the same end. The old conception that the primary education of African children should be the same as for French children, and the conventional extension of this assimilative fallacy to all secondary and higher education had given France many loyal co-operators, but alas! also a large contingent of 'déracinés'. Moreover, the insistence on French as the medium of instruction had been an obstacle to the diffusion of useful information. The

¹ Brévié, *Quatre études*, 1932; *L'Afrique Française*, Jan. 1933, 'La politique et l'administration indigène en Afrique Occidentale Française', R. Delavignette.

absurdity of requiring the fourteen millions of French subjects in West Africa to understand French before they could be taught that fly propagates disease, that unfiltered water is dangerous, that a plough is a useful agricultural implement, had only to be stated to be recognized. Hence the vernacular is now permitted in rural 'initiation' and 'elementary' schools without, however, allowing it to interfere with instruction in French once that language has been learnt. Similarly, courses for adults in better agriculture, better sanitation, and better living may be given in the vernacular. Furthermore, the educational system has been freed from its former exclusively French proclivities and has been adjusted more to the practical requirements of its African subjects. Its object is now rather to train them to make the best of the circumstances in which they will have to live than to qualify them ultimately to become French citizens. Moreover, care is being taken to give a European type of education only to those who prove themselves qualified to benefit by it and for whom there seems likely to be sufficient opportunities in the future. It is hoped thus to avoid increasing the number of Africans whose education is unsuited to their circumstances.¹

These changes do not, however, affect the underlying aim of French policy. It still remains as it was conceived by Faidherbe: an association between France and West Africa through which the Africans will be led on to become a French-speaking people, bound to France by cultural and economic ties and as loyal to her as are the French.

¹ Brévié, *Trois études*, Gorée, 1936, pp. 20-2; W. B. Mumford and G. St. J. Orde Browne, *Africans learn to be French*.

CHAPTER VI

BRITISH POLICY

AN American traveller passing from French territory into Sierra Leone in 1930 felt that no longer did he meet the type of African who looked you in the face and said, 'Je suis français'. No Sierra Leonian ever claimed to be British.¹ The contrast illustrates a difference between British and French aims and methods, the French inclining more to centralization and social assimilation, the British to decentralization and social separation. When European control began to spread inland both powers were in the same situation of having to cope with more or less europeanized African communities on the coast while the Africanism of the inland tribes remained intact. Both powers had attempted to introduce European representative government among the former, and a comparison of even Pine's crude and abortive Gold Coast experiment in 1847 with the four municipalities of Senegal shows the difference between the two attitudes. Pine's councils were left to manage their own finances, which they failed to do. They were given municipal courts that clashed with the chiefs' courts. They passed by-laws of whose wisdom Pine was doubtful. The idea was to educate them in habits of self-reliance. The Senegal municipalities, on the contrary, were rather bodies to which the central government delegated certain functions while still retaining some control over the way they were performed. The councils' budgets were divided into obligatory and optional expenditure by the Governor, and required his approval. So also did their regulations. Their revenues were collected for them. There were no municipal courts.

Again we may observe the British centrifugal tendency in the Sierra Leone Ordinance of 1893² establishing a

¹ S. de la Rue, *The Land of the Pepper Bird*, p. 34.

² Ordinance 8 of 1893. P.R.O. CO/269/5.

Municipal Council in Freetown 'in order to provide Africans with a training ground in responsible government'. The council was at first made liable for the upkeep of the roads, for administering the building regulations, for sanitation, water supply, fire protection, markets and slaughter houses, street lighting, cemeteries, and places of public recreation. The Government retained no control over its actions, nor did it nominate any of its members. The qualification for the franchise was the occupation of premises worth not less than £15 a year, and the rate was limited to 10 per cent. of the annual value of rateable property and a water rate of 3 per cent. The council therefore was as independent as Pine's had been on the Gold Coast. It did not, however, come into existence until an amending ordinance had been passed in 1895 relieving it of the cost of repairing the roads. Even then it proved unequal to its task and its powers were progressively curtailed. The first four years of its existence were financially precarious, as may be seen from the following figures:¹

| | Revenue | Expenditure | |
|--------|---------|-------------|--------|
| 1895-6 | 4,333 | 2,240 | +2,093 |
| 1896-7 | 3,575 | 4,162 | -587 |
| 1897-8 | 3,561 | 5,405 | -2,044 |
| 1898-9 | 5,122 | 5,088 | +34 |

The last surplus included £300 raised locally in debentures repayable within thirty years. Excluding this there would have been a deficit of £266. In consequence of this shaky beginning the council was reorganized in 1899 by adding three Government nominees, one being a medical officer of health and another the Commissioner of Police. At the same time the qualification for the franchise was reduced to the occupation of premises worth £6 a year.²

The council continued to work on these lines until 1912, when an investigation into health conditions caused

¹ *P.P. 1900, lv.*

² *Freetown Municipal Improvements Ordinance, No. 23 of 1899.*

the Government to assume responsibility for sanitation and for building regulations; the council's interests being thus reduced to fire protection, markets and slaughter houses, street lighting, cemeteries, and places of public recreation. Nevertheless, its revenue did not meet its expenditure, the deficits being chiefly attributable, as in the case of Pine's councils, to failure to collect the rates. In 1924-5 the accumulated arrears amounted to £9,600, and more than 1,600 persons were in default for rates and over 1,900 for water rates. The arrears also partly accounted for the registration of only 674 voters in 1924 as against 848 in 1900, for ratepayers in arrear were disqualified. Another cause of the break-down was the disordered condition of the municipal accounts and the inefficiency of the services, except the water works which were run by an African engineer. In view of these conditions a Commissioner was appointed in 1926 to report. He recommended that in future the Mayor should be a European official and that his council should be composed of five nominated and five elected members. He added that in his opinion the Africans were not to blame for the failure.¹

'The institution was not an organic growth. It was forced full-fledged upon a people who were not ripe for the experiment. They were expected to work, without any preliminary training, a type of institution which those who imposed it upon them had only learned to work through centuries of experience.'

The criticism was justified. Had the Commissioner's plan been adopted in the beginning, the representative character of the council and its powers might have been gradually increased from time to time, instead of being diminished. The new council created after the receipt of the Commissioner's report consisted of four official and three elected members; in 1934 the number of the elected was increased to four. This was the procedure followed on the Gold Coast. Municipalities were estab-

¹ Report of the Commission of Enquiry into the Freetown Municipality, May-July 1926; Buell, i, cap. 54 (6).

lished there in 1894 with official majorities and in 1924 the official majorities were abolished.

The Sierra Leone Tribal Administration Ordinance of 1905 is another example of British separatism. It refers to Africans who, while still retaining their traditional affinities, are resident in Freetown or its neighbourhood. It empowers the Governor, after consultation with the municipality, to recognize a tribal ruler over each ethnic group and to authorize him, in co-operation with the headmen, to make regulations on a variety of domestic subjects, to levy contributions for tribal purposes, and to try minor offences. Thus an African social organization is maintained with the Europeanized urban framework. The three grades of 'mixed communes' in the French colonies, on the other hand, tend towards the elimination of such differences and to a progressive unification of all in municipal affairs.

Again we may note the same contrast in colonial legislation. The principle that the colonies are integral parts of France carries with it the corollary that they must be subject to the central legislature in Paris in which they are represented. It is impossible, however, to apply all its enactments to them indiscriminately owing to their different circumstances, and so the difficulty has been overcome, not as in the British Empire by delegating legislative authority to them, but by expressing it in decrees issued by the Republican Executive which is responsible to the legislature.

British decentralization has resulted also in a greater diversity of Native administration and policy than is found in the more unified French possessions. The idea of leaving the chiefs in control accorded with British precedent; and perhaps because the Gold Coast Native administration was the first to be organized, the principle was carried to greater lengths there than elsewhere in West Africa. The Native Jurisdiction Ordinance passed in 1878, four years after the proclamation of the more direct protectorate, recognized as 'Head Chiefs' those who were not subordinate in their jurisdiction to any other chiefs,

and empowered the Governor to subdivide their areas between 'Divisional Chiefs'. Head chiefs were then given authority to pass by-laws, with the concurrence of divisional chiefs and headmen, on a wide range of subjects, including the control of unoccupied lands and forests, the regulation of mines and of fisheries, the construction and repair of roads, of watercourses and watering-places, the abatement of nuisances and agricultural pests, the administration of burial-grounds, and so forth. After they had been approved by the Governor and published in the *Gazette* such by-laws had the force of ordinances. These powers were intended to be exercised under the supervision of the District Commissioners, who were instructed not to interfere unnecessarily in the actions of any chief and to support him unless he appeared unfit for his duties, in which case the Commissioner was to seek out and find another to supersede him and report on the subject to the Governor. Most of the chiefs, however, showed themselves worthy of the trust.¹

Nevertheless, the arrangement had embarrassing results. It carried decentralization too far. It delegated to chiefs, who were in the position of local authorities, control over such matters as the granting of land and mining concessions, forestry conservation and the eradication of agricultural pests, which are more conveniently handled by a central legislature. An attempt to conserve forests broke down owing to the difficulty of securing the co-ordinated action of the many Native authorities. And when legislation was passed imposing on them the necessary reforms it was resented as an infringement of their rights. The same obstacle interfered with efforts to eradicate disease in cocoa plants and with legislation controlling the disposal of Native lands to private persons. The Gold Coast Aborigines Rights Protection Society was formed in 1897 in consequence, and a demand arose for a greater share in the work of legislation² than

¹ Native Jurisdiction Ordinance Nos. 8 of 1878, 5 of 1883. *P.P.* 1884-5, lv. 623-5, 673. Lord Derby's dispatch, 25 Mar. 1884.

² Buell, i. 831.

was provided by the nomination since 1886 of four unofficial members of the Legislative Council. The Protection Society combined in its membership both educated coastal Africans and chiefs, who thus continued to associate in opposition as they had in the past.

In response to these movements the unofficial membership of the Legislative Council was increased in 1916 to nine, three of them being chiefs, three educated urban Africans, and three Europeans representing commerce, mining, and banking, while the official members numbered twelve. Ten years later the election of unofficial members was introduced. The Council was enlarged to twenty-nine, of whom fifteen were officials and fourteen unofficials. The latter now include six chiefs, elected by the Provincial Councils, whose members are the Head Chiefs of the three Provinces into which the protectorate has been divided, three municipal members returned by the electorate of the towns, and a member chosen by the Chambers of Commerce and another by the Chamber of Mines. The remaining three are nominated by the Governor to represent commercial, mining and banking interests. A similar council is found in Sierra Leone. In their constitution both resemble the 'Conseil Colonial' of Senegal, which the French have rejected as a precedent. Instead, the Governor-General of French West Africa has a consultative 'Conseil de Gouvernement', composed of officials, the Presidents of Chambers of Commerce, and one nominated chief from each colony.

The political history of Nigeria has been somewhat different. After 1906, when the Colony of Lagos was amalgamated with the Protectorate of Southern Nigeria, the Legislative Council in Lagos exercised jurisdiction over both. But in 1914, when Northern Nigeria was joined to them, the Council's functions were confined to the colony and the power of legislating for the remainder of the dependency passed to the Governor. Thus the old division between colony and protectorate was revived in the expectation that the urbanized and educated Africans of the colony would find sufficient outlets for their

political energies in municipal affairs, in the Civil Service, and ultimately in the government of their own community by popular election.¹ One reason for separating the colony from Southern and Northern Nigeria was that their size made it impossible for a council meeting in Lagos to represent the opinion of the more distant parts. Another was that the disjointed and primitive state of African society make it unsuited to a representative form of government. In its place a 'Nigerian Council' was created after the pattern of the French West African 'Conseil de Gouvernement'. It had no legislative powers. Its role was merely to bring together leaders from all parts of the country at least once a year for purposes of discussion.² But a few years later, in 1922, the Nigerian Council was abolished and the colony was again united to the protectorate under one legislature containing elected municipal representatives, nominated European and African members, and an official Government majority.

The above contrasts between French and British methods are so many political explanations of the difference noted by the American traveller. The French African is encouraged to look towards the same national centre as does the Frenchman, and his political education is expected to culminate in participation in a centralized system and not in the development of decentralized governments.

This antithesis has been emphasized by the genesis of a new British doctrine of 'Indirect Administration'. In its simplest form the phrase means governing through the Native authorities. In former volumes of this series many examples of such procedure have been cited, and it has been qualified as either 'direct' or 'indirect' according to the amount of freedom allowed to, or the extent of the control exercised over, the Native authorities. But 'Indirect Administration' as now applied in British West Africa and elsewhere means more than this. It is not the mere use of a Native authority as an instrument of

¹ Lord Lugard, *The Dual Mandate in British Tropical Africa*, p. 225.

² *Ibid.*, pp. 122-3.

government. It is the recognition of that authority as the right starting-point from which the Native polity of the future shall develop so as to be constitutionally connected with its past. It aims at building on African organizations and ideas, and leaving the people themselves to evolve their own local institutions according to the standards of modern civilization. They cannot, however, be expected to do so without guidance, advice and control, and it is the function of the administration to supply these.

The first step in this evolutionary process must be to discover the Native authorities possessing the allegiance of the people. As MM. Ponty and Carde pointed out, they differ widely in character. One may be a head chief of a large tribe with his traditional councillors and advisers. Another may be only a chief of a small clan with no superior chief above him. Another may be a council formed of the headmen of a few villages. Elsewhere the original authority may have ceased to exist, and it may require patient research to discover and revive it. But whatever it may be it is accepted as a foundation, and, after being invested with power by means of the 'Native Authority Ordinance', becomes a part of the dependency's constitution. It neither works separately from nor in co-operation with the Resident, whose duty it is to guide and advise it. Both are parts of a single government in which the Africans have well-defined duties and an acknowledged legal status side by side with the British officials.¹

The similarity between this approach to the problem of African administration and that propounded by M. Brévié and his immediate predecessors in the Governor-Generalship of French West Africa is obvious. Both recognize that the task ahead is long and complicated and that success depends on paying attention to existing circumstances. But the French have a clearer notion of the end to be worked for, whereas it is of the nature of

¹ Sir D. Cameron, *The Principles of Native Administration and their Application*, para. 46.

the British policy that no one can foretell what may emerge from it. It also implies that the Africans shall have some freedom to decide for themselves what their destiny shall be—a responsibility which the French conception denies to them. The extent to which they will be allowed real freedom of choice under the British policy must depend upon the way it is administered. It is capable of being used as a means of retarding rather than accelerating any release from tutelage. It also raises a more difficult problem of education, demanding a remodelling of the whole system hitherto followed in order to bring it into closer relation with African life.¹ Such radical reconstruction offers few difficulties in the elementary standards. The French, as we have seen, have already given a lead in it. But it becomes more difficult and controversial in the higher stages, where its Africanism must become progressively submerged in the universalism of all knowledge. And so also with the amenities of modern life to which Africans have only recently begun to be introduced. The same problem as it is found in the Western Pacific, was one of the matters touched on in the first volume of this series. The remedy there applied has been more in the direction of bringing elementary rural education into line with the more advanced education of the towns, and at the same time increasing the opportunities of the countryman by contriving an effective educational ladder for all who are capable of taking advantage of it.²

¹ L. P. Mair, p. 17; Buell, i. 887. For a critique of this policy see Victor Murray, 'Education under Indirect Rule', *Journal of the Royal African Society*, July 1935.

² *Native Education*, pp. 225-30.

PART II
THE WEST INDIES

CHAPTER I

THE FRENCH

WE must now cross the Atlantic and take up the story of the Negroes who had been transported as slaves to the West Indies, and who, by the end of the eighteenth century, had become the largest group in the islands' populations.

The French Revolution was seized on by all classes of French West Indian society as affording opportunities for each to gain its own particular ends. The planters saw in it a chance of securing colonial autonomy under their own control. The traders and poor whites hoped to acquire through it a share of the wealth of the planters. The free Coloured looked forward to the equality of status that it promised them; and the slaves cherished vague ideas that perhaps it might bring them freedom. The antagonisms arising from these aspirations developed differently in each island. But in general the higher classes were not willing to share any benefits they might acquire from the revolution with the lower. The planters wished to monopolize the Government. The lesser whites did not desire that any political benefits they secured should be conferred also on the free Coloured; and none saw any advantage in the liberation of the slaves. On this last point the National Assembly in Paris¹ felt obliged to acquiesce. Even 'La Société des Amis des Noirs', founded in 1787 to promote emancipation, was compelled to admit that to introduce it immediately would 'not only be fatal to the colonies, but would also be a disastrous gift to the slaves in the abject and helpless condition to which cupidity had reduced them'.¹

But although thus tolerant of slavery, the National Assembly saw no reason why all freemen, irrespective of their colour, should not enjoy equal political rights, nor

¹ Manifesto of the Society dated February 1789. L. Deschamps, *Les colonies pendant la révolution*, p. 207.

why colonial representation in Paris should be confined to the whites. The point was raised by the whites in San Domingo dispatching eight deputies to Paris to represent them in the States General. They arrived soon after that body had converted itself into the National Assembly. They were refused admission. Nevertheless, through the agency of the Hôtel Massiac, a society organized by planters resident in Paris in opposition to the *La Société des Amis des Noirs*, they got six members admitted to the Assembly. They were joined soon afterwards by eleven others, two of whom represented Martinique, five Guadeloupe, two the settlements in India, and two Mauritius. But this influx of colonial deputies drew attention to the fact that they spoke only for the whites and caused a resolution to be carried that in future their numbers should be proportionate to the free population in each colony.¹ The attitude of the San Domingo planters to this proposition was made clear when the Assembly tried to summon a convention in the colony to advise on its future government. The planters demanded that the qualification for the franchise should be the ownership of at least ten slaves, and the qualification for membership should be the possession of at least twenty. They also set up Assemblies of their own and cut themselves off as far as possible from all contact with Europe.²

In Martinique the feud between the planters and the traders was more bitter than it was in San Domingo, and the traders, when they heard of the fall of the Bastille, adopted the tricolour as their emblem. But they were unwilling to practise the egalitarianism that it betokened. Like the planters of San Domingo they demanded a controlling voice in any colonial legislature, and they sent two deputies of their own to Paris. Finally, they refused, through race prejudice, to allow the coloured local militia to take part in the religious procession of 'la Fête de Dieu', and,

¹ Buchez et Roux, *Histoire parlementaire de la révolution française*. Debates of 27 June, 3 and 4 July 1789.

² Gaffarel, *La politique coloniale de 1789 à 1830*, p. 121; B. Edwards, *History of the West Indies*, iii, chap. ii.

in the collision which followed, they were so infuriated by the resistance of the Coloured that they seized twenty-four of them and hanged them. A civil war followed in which the Governor, whose authority the traders refused to recognize, and the planters were supported by the free Coloured. It ended in the victory of the Governor. Nevertheless, he was blamed by the National Assembly in Paris for not having kept the balance more evenly between the planters and the traders, and troops and commissioners were sent out with wide powers to replace him.¹

In Guadeloupe the Coloured, in alliance with some of the whites, set themselves against the planters who wished to maintain pre-revolutionary conditions.

Thus the free Coloured had to fight for their rights in all three colonies. They claimed to share equally with Europeans all the benefits of the Republican Declaration of Rights. They appealed also to the Code Noir, which a hundred years previously had guaranteed to all enfranchised slaves the same rights, privileges and immunities that were enjoyed by persons born free.² They demanded equality of opportunity in all government and municipal appointments, in the legal profession, in the priesthood, in arts and trades, in education and in society, and that the use of colour descriptions in registers and legal documents should be prohibited. They asked that the white officers of the coloured militia corps should resign and their places be filled by the election of either white or coloured creoles. At the same time they were careful to separate themselves from the Negroes by demanding that 'all Mulattoes and coloured, other than Negroes', should be free, and that all assaults by slaves on free citizens, no matter what their colour, should be rigorously dealt with.³

The Coloured were represented in Paris by 'La Société

¹ Pardon, *La Martinique depuis sa découverte jusqu'à nos jours*, pp. 93-106.

² Articles lvii and lix.

³ Cahier contenant les Plaintes, Doléances et Réclamations des Citoyens libres, et Propriétaires de couleur des Isles et Colonies Françaises.

des Gens de Couleur Libres', and by Julien Raimond and the Quadroon Ogé, as their spokesmen. These two appeared before the Hôtel Massiac in August and September 1789 and tried to persuade it to go so far as to adopt the principle, which was in force in Jamaica, that every one removed a certain number of degrees from the Negro should be entitled to the rights and liberties of white subjects. This proposal was a compromise on their part, for it meant excluding free Mulattoes and Quadroons from the franchise. Nevertheless, the representatives of the planters would not listen to it, and when Raimond and Ogé carried the campaign in its favour into the National Assembly they resorted to the ingenious device of organizing a deputation of enfranchised Negroes to demand the same representation as that which might be accorded to the free Coloured, on the ground that pure-bred Negroes should be classed above all cross-breds. The planters knew that this suggestion would be alarming to the Assembly, who would see in it a precedent for a similar demand from the equally pure-bred Negro slaves. They were not mistaken. The Assembly, alive to the danger, resorted in March 1790 to a compromise under which, in consideration of the grant of colonial autonomy, the white planters were to accept the sovereignty of the mother country, and to agree to the franchise being conferred on '*all persons*' of not less than twenty-five years of age, who were owners of real estate, or tax-payers, and who had been domiciled in the colony for not less than two years.¹

The point of this compromise was that the expression '*all persons*', was vague enough to be construed to suit either party. In the words of the Abbé Grégoire: 'On disait aux Mulâtres: vous êtes compris sous la dénomination de "toutes personnes". On disait aux Blancs: l'assemblée ne désigne point les gens de couleur, vous pourrez argumenter de ce silence.'² Barnave, who was the reporter of

¹ Decree, 8 March, Instructions, 28 Mar. 1790; Deschamps, 213; Edwards, iii. 63.

² Buchez et Roux, x. 93. Speech, 7 May 1791.

the Colonial Committee of the National Assembly, himself explained the phrase by saying that, although it did not exclude the free Coloured, it was not intended to be a decision in favour of their inclusion, the qualification for the franchise being a matter on which the Colonial Assemblies were to make proposals to the National Assembly. The advocates of the coloured people tried to persuade the National Assembly to decree in clear and unmistakable terms that every free person, no matter what his colour, must enjoy the full rights of a citizen. But the Assembly refused on the ground that it recognized no colour distinctions and could employ no terms which seemed to admit them.¹

The white planters of San Domingo equally rejected this compromise. They would be satisfied with nothing less than their full demands. They would not even accept the sovereignty of the mother country. In May 1790 they issued a decree assuming control over all colonial legislation, including decrees passed by the National Assembly in Paris. Their deputies in Paris spoke openly of independence. They tried without success to prevent Ogé sailing for San Domingo. And when he arrived there and attempted to secure by force the equal rights which he considered the National Assembly had bestowed on his people, they broke him on the wheel.

The National Assembly could not remain unconcerned at these rebuffs. It therefore took up the question again, and Raimond was admitted to plead his cause. He followed the usual plan of dissociating himself from the Negroes, and giving the most positive assurance that his people could be relied upon to co-operate with the whites against the slaves. In the debate which followed the colonial party tried to persuade the Assembly that the settlement of the question should be left to the white colonists. The advocates of the coloured people appealed to the principles of the Revolution and called upon the Assembly to put them fearlessly into operation. In the

¹ *Ibid.* xi. 465; Deschamps, 99; Raimond, *Véritable origine des troubles*, p. 22.

end the Assembly, on 15 May 1791, once more took refuge in a compromise, by adopting a motion proposed by Rewbell, giving the right to vote and to sit as members in the Colonial Assemblies to coloured people born of parents who were free; and declaring that no further extension of the franchise would be granted without the consent of the colonists. This meant the division of the coloured people into two groups—those who had been born of free parents, who were to enjoy equality with the whites; and those who had themselves been enfranchised, or one of whose parents had been a slave, who could only be elevated to equality with the consent of the colonists. Furthermore, it meant departing from the principle of settling the qualification for citizenship by the proportion of white blood in the veins of an aspirant. In its place the status of the parents became the deciding factor. The former principle allowed for the continual and automatic reception of coloured people as citizens, on their reaching the required degree of whiteness. The latter limited the first grant of the franchise to an existing class, and left further admissions to the discretion of the white colonists. It was a possible settlement of the immediate problem, leaving the future to be fought out in the colonies themselves. Nor was it rejected by all the colonial representatives, for it received the support of the deputy for Mauritius, who spoke also for the island of Réunion. The other colonial representatives were immovable in their opposition and withdrew from the Assembly in dudgeon. They set to work outside to prevent the decree being put into operation, by using their influence in the Colonial Committee to have it repealed, and by delaying the sailing of the Commissioners who were charged with carrying it to San Domingo. Nevertheless, it became known there unofficially.¹

These facts had an important bearing upon the subsequent events in San Domingo. A serious slave revolt broke out in the northern part on 23 August 1791, under one Boukmann. It temporarily brought home to the

¹ Deschamps, 244; Edwards, iii. 68.

planters the similarity of the coloured people's interests with their own, for the former came forward and unconditionally offered to assist in its suppression. In gratitude for this the Colonial Assembly, on 20 September, decided not only to put into execution the decree of 15 May 1791 as soon as it was officially received, but also to do something to improve the position of the free Negroes. At the same time the free Coloured of the South and West areas, being ignorant of what was happening in the North, rose to demand their rights. With the help of some slaves they threatened Port-au-Prince so effectively that, on 11 September, they forced a concordat on the whites, which stipulated for the execution of the decree of 15 May 1791 and for mutual co-operation against all enemies including, of course, the slaves. But the Governor refused to ratify these terms. He declared that he could not put into operation a decree that he had not officially received. He therefore did nothing. The coloured people also waited until 24 October without moving. Then they marched into Port-au-Prince where the whites, who had now come round to the Governor's view, attacked and repulsed them, but not before three hundred houses had been burned.¹

While these events were happening in San Domingo the Constituent Assembly in Paris, in spite of Robespierre's protests, was induced by the colonial party to pass a decree in September 1791 which by implication rendered that of 15 May 1791 ineffective. All the old arguments were used to secure this result. The Assembly was told that the only hope of 3,000 whites controlling 450,000 slaves lay in maintaining the unbridgeable gulf between Black and Coloured, and between Coloured and White, and in keeping alive the prejudice which separated the two pure races from the cross-bred descendants of slaves, however remote the slave ancestor might be.² Naturally, when this decree was promulgated in San Domingo, on

¹ Edwards, iii. 84-98; Deschamps, 255-7.

² Bucbez et Roux, ix. 461. Barnave's speech. See *The Atlantic and Slavery*, p. 261.

30 October 1791, it had a hardening effect upon the attitude of the white planters. But their undoing followed almost immediately afterwards at the hands of the Legislative Assembly, which replaced the Constituent Assembly in October 1791. In the following April it passed a decree assuring full political rights to all free Coloured and Negroes. Furthermore, it appointed three Commissioners to go out to San Domingo to see that this was put into operation, and it dispatched 6,000 troops to ensure their being able to do so. They landed at Cape François on 13 September 1792. Soon afterwards they dissolved the Colonial Assembly on the ground that the free Coloured were not represented in it, and replaced it by a Provisional Committee of twelve, six of whom were Coloured. With their intervention, therefore, the second phase of the revolution in San Domingo may be said to have ended in a triumph for the free Coloured. But it was as short-lived as had been the victory of the planters after the execution of Ogé in 1790. It was now the turn of the Negroes; for on the first intimation of a British attack on the island, the Commissioners hastily abolished slavery and pronounced all Negroes free who joined their standard. San Domingo now passes out of our survey. The Negroes took control and, under the leadership of Toussaint Louverture and his imperial successors, established an independent state.

CHAPTER II

THE FRENCH

BEFORE the Revolution the French West Indies were dependencies whose functions were to grow the tropical products France lacked and to encourage its commerce and its mercantile marine. They were allowed no independent interests. They were subservient both commercially and politically. They were ruled directly by the King through their Governors and Intendants. There was a Governor's Council, which included two planter members. There was a local Chamber of Agriculture to represent colonial opinion. There was an agent in Paris. But all were nominated by the King and could only give advice. Neither colonists nor Frenchmen had any right to be consulted. But the emergence of representative institutions in the Revolution created that right: and it was expressed for the colonies, as we have seen, by admitting deputies chosen by them into the National Assembly, by inviting them to make suggestions on their future government and by declaring them to be integral parts of France and not merely economic adjuncts.

From these circumstances two schools of colonial policy emerged. The first, leaning towards the traditions of the past, tended to differentiate the colonies from the mother country, and, while keeping them bound to it by national and economic ties, removed them from parliamentary control and was ready to allow them a measure of autonomy. The second, inspired by the revolutionary doctrines, wished to assimilate the colonies to the mother country, treating them as far as was possible as if they were geographically contiguous to it instead of being separated from it by the ocean. The first school could regard with equanimity a continuance of the colour distinctions fostered by the pre-revolutionary Government in the West Indies but unknown in France.¹ The second

¹ *The Atlantic and Slavery*, pp. 256-7.

school abhorred them. According to its view, any inhabitant of a territory that was an integral part of France must enjoy the same privileges as Frenchmen in Europe. Among them was the right to be represented in the national parliament in Paris, a privilege that the autonomists considered unnecessary.

The West Indian Islands of Martinique and Guadeloupe were particularly well suited to be fields of competition between these two schools of imperial opinion. Unlike Senegal, their whole structure was of French manufacture. Their original inhabitants had been exterminated. They were peopled by immigrants brought in by the French. They, with Senegal, the island of Réunion, the Indian settlements and the small islands of St. Pierre and Miquelon were all that remained of French seventeenth-and eighteenth-century enterprise. They became 'les anciennes colonies', to be differentiated from the nineteenth-century empire not yet in prospect. In this chapter and the next we are concerned only with Martinique and Guadeloupe.

Although it is thus possible to classify French colonial policy as either autonomous or assimilative, the two doctrines overlapped and never operated absolutely. The French Revolution began by carrying assimilation to the length of putting all the inhabitants of the colonies on a plane of theoretical equality and giving them representation in parliament. Napoleon, when he became Consul, swept away these new assumptions and reverted to pre-revolutionary principles. The colonies again came under the direct rule of the head of the State and parliamentary representation ceased to exist. Even slavery was re-established. The government of Louis XVIII affected the same attitude. Although it was in form a limited parliamentary monarchy the colonies returned no members to parliament. They were not subject to its legislation, but were governed by 'special laws and regulations'—a phrase that was interpreted to mean that the Minister of Marine and Colonies could issue decrees concerning them without consulting any one.¹ Nevertheless the

¹ Charter of 1814, Art. 73.

revolutionary conception of them as integral parts of France still persisted, and influenced the development of their political institutions under both Louis XVIII and Charles X. In 1819 their Chambers of Agriculture were replaced by Committees of Agriculture with a status comparable with that of the 'Conseils Généraux' of Departments in France. The planters opposed the reform. They wanted the Governor's Council to be given more power. But their objections were overruled; and the intention of bringing the colonial administration as far as possible into line with local government in France was proclaimed. The next step was taken in 1827, when the islands were divided into communes and the Committees of Agriculture were promoted to be 'Conseils Généraux' with larger memberships. They were still, however, nominated by the King. Their functions remained only advisory, and colonial legislation was retained in the hands of the executive. It was restored to Parliament by the July Monarchy, but without colonial representation, while the 'Conseils Généraux' were converted into elective 'Conseils Coloniaux' with autonomous powers of imposing taxes, voting supplies and legislating within certain limits. The results were not satisfactory, because the Councils, like other local government bodies which know that their deficits must be made good by the central government, were tempted to be irresponsible. Hence in 1841 the finances were again brought under ministerial control.

We have confined the above summary of colonial reforms to the succession of Committees of Agriculture, 'Conseils Généraux', and 'Conseils Coloniaux' because they were severally designed to represent the opinions of the governed. The planters had formerly claimed a monopoly of this function; but circumstances were no longer favourable to their pretensions. Founded on slavery and on the supremacy of the West Indian sugar industry, their position was being rapidly undermined by the competition of other producers and by the new liberalism. Their sugar had now to compete with home-grown beet-sugar, which was less subject to taxation, used

up-to-date methods of production and was comparatively inexpensive to market. Nevertheless, they were so tied to sugar that they neglected to develop alternative crops and allowed the exports of coffee, cocoa and cotton to diminish.¹ Their loss of position was accompanied by an enormous increase in the free Coloured. It is shown in the following table:

| | Free Coloured | | | Total population | | |
|------------|---------------|--------|-----------------------|------------------|---------|-----------------------|
| | 1790 | 1835 | Per cent. increase | 1790 | 1835 | Per cent. increase |
| Martinique | 5,235 | 29,000 | 454 | 99,284 | 116,031 | 17 |
| Guadeloupe | 3,149 | 20,000 | 535 | 107,226 | 127,574 | 19 |

Ten years later the number in Martinique had jumped to over 37,000.²

The passing of the white planters was the opportunity of the free Coloured. We have seen how conscious the latter were of their rights and of their strength during the French Revolution. Under the Restoration Government they continued to press their claims. They were encouraged by sympathizers in Paris who pleaded their cause in parliament. They knew about contemporary movements in England.³ They noted the assimilative tendency of French colonial reforms and were unable to reconcile it with their surviving disabilities. They chafed at still being subjected to eighteenth-century discriminations forbidding their marriage with whites, excluding them from public office, segregating them in churches and theatres and denying them the dignity of being addressed as 'Sieur et Dame'. Their dissatisfaction was so acute in Martinique that in 1824 they were suspected of plotting to seize power by force, and thirty-seven of them were banished to Senegal. Two, MM. Bissette and Fabien, escaped to Paris and became active exponents of their compatriots' cause.⁴

¹ P. Chemin Dupontès, *Les petites Antilles*, p. 194.

² *Notices statistiques sur les colonies françaises*, Part I, 1837, pp. 50, 141.

³ See below, p. 113.

⁴ Pardon, *La Martinique*, pp. 162-3, 166-9.

Clermont-Tonnerre was Minister of Marine and Colonies in 1823. We have already described his forward policy in Senegal and his plan of engaging the help of the free Negroes of St. Louis by converting them into producers of export crops. He was equally anxious to secure the co-operation of the equivalent class in the West Indies, for he recognized that healing the breach between them and the whites would add to the security of the colonies against the slaves. His scheme for doing this was strangely reminiscent of the National Assembly's mental reservation over the franchise problem in March 1790. He proposed to admit the right of all free Coloured to fill any office in principle, but to appoint only whites save in exceptional cases. Thus coloured pride would be satisfied and white supremacy maintained. So also other coloured disabilities might be mitigated by promoting individuals to equality according to their merits.¹ Hence the free Coloured benefited little from the reforms of 1819 and 1827; and their dissatisfaction was apparent in the serious disturbances which broke out both in Martinique and Guadeloupe in 1830.

Louis-Philippe's Government, as the offspring of the Revolution of July was more inclined towards equality than was its predecessor. Among its first actions, which we have already observed as applied to Senegal, were the abrogation of all colour distinctions and the endowment of all freemen in the colonies, irrespective of colour, with full civil rights.² The free Coloured were thus accepted as potential voters for the new elective 'Conseils Coloniaux'. But the qualification for the franchise had still to be decided. The Government had refrained from defining it for Senegal; for the more assimilated Antilles they proposed that it should be the payment of at least four hundred francs a year in direct taxation, counting every slave above fourteen years of age as equal to a thirtieth of that sum. This solution might have satisfied Ogé and

¹ Cf. 'Jamaica in the Eighteenth Century'. *The Atlantic and Slavery*, pp. 220, 279.

² Charter of 14 Aug. 1830, Art. 63. Law, 24 Apr. 1833.

Raimond because it admitted the equal status of White and Coloured. It was now rejected by Bissette and Fabien because it made a difference between the colonies and France. The qualification for the franchise in France under the Restoration Government had been the possession of property worth at least 300 francs. The constitution of 1830 had reduced it to 200 francs. Bissette and Fabien demanded the same for the colonies. Who but the privileged planters, they asked, paid as much as 400 francs a year in direct taxation? The middle-class proprietors, who were 'the people', would be excluded. The planters also attacked the Government's plan from the other flank. They were not satisfied with 400 francs. They wanted 600, and every slave to count as a twentieth of it. The law, as finally passed, settled the amount at 300 and omitted all reference to slaves. Even so, white supremacy was not in the smallest degree endangered, for in the first year 670 white voters were registered in Martinique and only 96 coloured. Three years later the numbers had risen to 691 and 128 respectively. In Guadeloupe the electors were 1,092, but how many of them were coloured is not stated.¹

Another limitation of the coloured franchise advocated by the Government was a ten years' interval after emancipation before a freedman could be registered. The proposal was resisted by Bissette and Fabien because it failed to take into account the peculiar position of the Negroes who were free in fact though not in law. They were of two classes. The first were the 'patronnés', who had been emancipated by their owners in despite of official discouragement and obstacles, and who consequently were not registered as freemen.² They deserved better than to

¹ P. Thureau-Dangin, *Histoire de la monarchie de juillet*, i. 35; Mondésir-Richard, *Des hommes de couleur*; Bissette, *Observations sur les projets des lois coloniales*; Fabien, *Observations sur le rapport du 3 Avril*; A. Foignet, *Notes sur les projets de loi*, puts the planters' case. *Notices statistiques*, Part I, 56, 170.

² Fabien, *Patronnés ou libres de savanes*. See *The Atlantic and Slavery*, p. 258.

be coupled with raw slaves for whom a ten years' apprenticeship in freedom was reasonable. The second class was the Maroons or 'libres de savanes'. Their case was not so strong as was the 'patronnés'. They had not legally acquired their freedom and so were not competent to exercise full civil rights under the charter of 1833. But, short of restoring them to slavery, it was difficult to treat them on any other basis than their fellows of the first class. In any case, the high franchise qualification made the exception unnecessary and it was withdrawn. All new freemen, without distinction, were thus put on a political equality with the whites. But none was a voter. Hence manumissions were not interfered with, and the Revolutionary Assembly's compromise of March 1790 became law in 1833. White and Coloured were in principle politically equal, but few except whites were able to qualify for the franchise.

A third problem connected with the new charter was the division of powers between the King, the French legislature and the elective Colonial Councils. The planters sought to secure the widest possible measure of autonomy, relying on their influence in the local government. The free Coloured wished to centralize as much authority as possible in the French parliament, where they had several eloquent advocates. They objected to certain matters being reserved for disposal by Royal Ordinance, complaining that it meant reviving the more autocratic methods of the Restoration Government. The planters also disliked Royal Ordinances, but wanted the Governor's Privy Council and not parliament to replace them. In the end it was the planters who got least.¹ The amendment of the slave laws was one of the subjects reserved for disposal by Royal Ordinance, and that easily worked device produced a plentiful crop of legislation on the subject. Manumissions were simplified and relieved of taxation. The registration of slave births, marriages

¹ Bissette, op. cit.; *Observations sur le projet de loi relatif au régime législatif des colonies*. Submitted by the colonial delegates of Martinique, Guadeloupe, Bourbon and Cayenne.

and deaths was made obligatory. Education and religious instruction were provided for. A slave's rights to own property and to buy his freedom, both of which had hitherto depended upon custom, were given the force of law. All these reforms were opposed by the planters.¹

¹ P. Leroy-Beaulieu, *De la colonisation chez les peuples modernes*, i. 222-5. Law of 18 July 1845; Pardon, *La Martinique*, p. 269.

CHAPTER III

THE FRENCH

THE Revolution of 1848 inspired the second attempt to apply assimilation to the colonies without compromise. It declared slavery illegal, and so, by elevating all Negroes to equality with the Whites and Coloured, greatly augmented the class of black freemen which had been steadily growing by manumission since the beginning of the century. Having established equality between all, the Revolution removed the political safeguard of a property qualification and made every one a potential voter. At the same time the colonies, 'having been purged of slavery', were once more invited to send representatives to the National Assembly,¹ and the 'Conseils Coloniaux' were abolished.

Hardly had these radical changes been completed when the second Empire undermined them. While accepting the abolition of slavery and the principle of equality, it deprived every one—white, coloured, and black—of the right of representation. The Senate, a body wholly nominated by the Emperor, became the supreme colonial legislature for Martinique, Guadeloupe and Réunion, and no law passed in France was valid in the colonies if not specially applied to them. The 'Conseils Généraux' were restored, but as nominated bodies, half their members being appointed by the Government and half by the Municipal Councillors. But as the latter were themselves nominated by the Governor they could be relied upon to be conservative in their choice. Colonial representation in parliament was withdrawn, and in its place the 'Conseils Généraux' sent delegates to be members of the Minister's Advisory Council in Paris.

Such a Government, dependent as it was upon official patronage, could not fail to be favourable to the Whites. Its working has been graphically described by one of the Coloured. It is a picture of Mayors of Communes recom-

¹ B. Laroche, *Histoire de l'abolition de l'esclavage*, pp. 12-14.

mending to the Governor no one but their relations and friends for nomination to the Municipal Councils, nicknamed in consequence 'Conseils de Famille', while kindred and friendship were equally the chief avenues to membership of Conseils Généraux.¹ The effect on the relations between the Whites and the Coloured was what might be expected. Jules Duval, writing in 1864, describes the situation as 'pleine de mutuel défiance entre les blancs et les hommes de couleur'. He could suggest no other remedy than to rely on justice and the passing away of the generation that had been brought up amidst these rancours to bring about forgetfulness and reconciliation. But forty years later there was no improvement, and the description of the Coloured quoted below from Chemin Dupontès's book is reminiscent of similar irritations against them and their kind in former centuries:

'Ils sont développés sur ces terres des Antilles, dont ils sont devenus pour ainsi dire la race propre, et cette terre qui les a fait ils voudraient en être les maîtres . . . ils sont aussi ignorants qu'ils ont de prétention.'

Leroy-Beaulieu even saw in their domination the possibility of a repetition of the horrors of San Domingo.²

The sudden abolition of slavery in 1848 had been followed by a falling off in the value of exports and by reductions in the areas under sugar and in the number of workers employed on the plantations. The economic position of the islands became worse than ever before, and the planters were even less financially able than formerly to meet their difficulties. They could not raise the capital to reorganize their business on a free labour basis, even if their former field slaves had been willing to work for them. Hitherto they had conducted the industry on the principle, common to slavery, of each plantation being a self-contained, independent unit with

¹ F. de Mahy, *Le régime politique aux colonies*, pp. 16-17, 34-6.

² J. Duval, *Les colonies et la politique coloniale*, p. 150; Chemin Dupontès, *Les petites Antilles*, pp. 191-2; cf. *The Atlantic and Slavery*, pp. 243, 259-60; Leroy-Beaulieu, *De la colonisation chez les peuples modernes*, 6th ed., i. 249.

a separate sugar mill. The new conditions meant re-organizing the industry on a basis of smaller properties feeding central mills, a change that favoured the smaller coloured and black producers of cane. The planters, however, managed more or less to maintain their position and their political influence until 1870. Their labour difficulties were met by importing indentured workers first from Africa and then from India, and their financial problems were to some extent solved by the assistance of state banks established for the purpose.

Meanwhile the ex-slaves, having suffered the mortification of being restored to slavery by Napoleon I after eight years of freedom, and having been retained in bondage for forty years thereafter, were not inclined to exert themselves for the good of the society that had thus treated them. A return of 1,623 individuals emancipated at Pointe-à-Pitre in Guadeloupe after 1832 declares that only 50 were supporting themselves by their own industry in 1836 and that of the balance 660 were being maintained by the town, while 913 were vagrants. Nevertheless the Negroes were not entirely devoid of enterprise. As slaves they had been accustomed to breeding poultry and pigs, and some of them even kept large stock and lived in comparative comfort. Many continued on the same lines after being freed; and it was as small-holders growing food crops and as tenants on the sugar estates that they eventually found their level as producers. Evidence of this can be adduced from the increase in the number of small holdings devoted to food crops after the abolition of slavery, as will be seen from the following table:

| Martinique | | | Guadeloupe | |
|------------|----------------------------------|----------|----------------------------------|----------|
| | Area under food crops (hectares) | Holdings | Area under food crops (hectares) | Holdings |
| 1845 | 11,714 | 1,984 | 6,611 | 1,638 |
| 1850 | 12,731 | 2,064 | 7,597 | 2,182 |
| 1855 | 12,385 | 2,521 | 6,091 | 2,713 |
| 1860 | 11,368 | 4,098 | 6,270 | 4,342 |
| 1865 | 12,822 | 5,478 | 8,678 | 5,169 |

Here was an indication of Negro enterprise, for 'only a very few of the old class of free Coloured lived by growing food crops'; and among the holdings were included 'many small proprietors who grew nothing but provisions' and many a 'cabin and corner of land', such as would be occupied by a recently manumitted slave.¹

This was the position when in 1870 the third Republic inaugurated a return to the principles of 1848. An elected parliament in Paris again became the central colonial legislature and the colonies were represented both in the Senate and in the Chamber of Deputies. The colonial General and Municipal Councils were once more elective, but on a franchise untrammelled by any qualification save manhood. Hence the Negroes who had been emancipated in or before 1848 had now, like the Negroes of St. Louis and Goree, their first opportunity of voting. But they were not politically minded. Their position as freedmen was not so well established as was that of the Coloured. The latter, being as class conscious in relation to them as were the Whites, had always been unwilling to share their political ambitions with them, and were no less exclusive now. Consequently the black vote was eliminated as a serious factor, and manhood suffrage had the effect of handing over control of the councils to the Coloured who were the next largest class. They have taken full advantage of the opportunity. The Whites usually abstain from voting; so also do the Negroes. In 1919 of 46,223 registered electors only 15,280 voted in Martinique, and only 17,998 out of 48,981 electors in Guadeloupe.²

One result of the Coloured securing control was that the further importation of indentured labourers into Martinique was stopped by the 'Conseil Général' in 1884, because of their competition with local labour.³ The

¹ *Notices statistiques sur les populations et les colonies françaises*, Part I, 164; *Tableaux et relevés de population, de commerce et de culture*.

² S. H. Roberts, *History of French Colonial Policy*, pp. 504-5; A. Girault, *Principes de colonisation et de législation coloniale*, Part II, vol. i, 617.

³ Arrêté, 26 Dec. 1884. Institut Colonial International, *La main-*

Negroes had now become less improvident and vagrant. Their recollection of slavery had faded. They had begun to return to the sugar fields; but not necessarily as paid workers, for the industry was incapable of financing a wage system. Instead they became a combination of tenants and wage-earners. The 'colon' or 'cane-farming' plan was used chiefly by planters whose resources were small. By it a Negro obtained a plot of land on condition that he cultivated part of it for his landlord and part for himself. He was responsible for all the cost of production, except half the costs of fertilizers and transport. In exchange he received half the net sale price at the sugar factory. The results were usually unsatisfactory to both parties and perpetuated ill feeling between them. As indentured labour was discarded the 'gens casés' plan developed. The immigrant workers had been housed in huts clustered together on the properties where they worked. When they left, these were occupied by Negroes who bound themselves to work in return for their housing, the occupancy of a bit of land on which to grow provisions, and a wage of 1 to $1\frac{1}{2}$ francs a day. Other Negroes who already owned small plots of their own went out to work as part-time labourers.¹

Simultaneously with these developments in the growing of the sugar-cane the reorganization of its treatment continued. It may be illustrated by the following return relating to Guadeloupe, showing the numbers and kinds of sugar mills in the island.²

| | 1865 | 1870 | 1875 | 1880 |
|---------------------------------------|------|------|------|------|
| Steam mills | 73 | 81 | 63 | 62 |
| Water mills | 122 | 88 | 70 | 63 |
| Wind mills | 164 | 83 | 79 | 70 |
| Cattle mills | 6 | 7 | 1 | 4 |
| Plantations with no mills | 67 | 136 | 310 | 364 |
| Central mills with no plantations . . | 7 | ? | 7 | 11 |

d'œuvre aux colonies, i. 224-5; Pardon, *La Guadeloupe*, pp. 303, 311-12; Girault, Part II, vol. ii, pp. 212-15.

¹ Chemin Duponté, 222; *Congrès d'agriculture coloniale*, 1918, iii. 143.

² Tableaux et relevés de population.

The rise in the number of plantations with no mills is the measure of the passing of the old order and of the emergence in the sugar industry of the same class of smaller proprietor already prominent in the growing of food crops. Similarly the areas under provisions went on expanding together with the number of the separate holdings. By the nineties provision crops occupied more than 25,000 hectares, divided up into nearly 9,000 holdings in Martinique and over 28,000 hectares and 9,000 holdings in Guadeloupe.¹

At this point the situation in Martinique and Guadeloupe became the subject of a special discussion at the Colonial Conference held in Paris in February 1890, when the two alternative policies of autonomy and assimilation were reviewed and the former rejected as 'contrary to our traditions, to the genius of our race and to our administrative customs'. It seemed evident to the Conference that, as far as the inhabitants of the two islands were concerned, assimilation might be said to be complete after three centuries of French occupation. Such a long apprenticeship differentiated them, for example, from the people of Cochin-China. In that country, although the Annamese residents of the town of Saigon were considered ripe for assimilation after twenty years of French Government, the countrymen were recognized to be not yet qualified for it. On the other hand the people of the Antilles, irrespective of class and colour, displayed a unity of civilization, of religion, of language, of education and of patriotic sentiment, that made any other policy unthinkable. The French black man of Martinique, so C. S. Salmon observed, acted the Frenchman so completely in his gestures, gait and manner of life that, excepting physical differences, the resemblance was almost perfect. And yet, so the Conference complained, institutional assimilation had been no more than three-quarters accomplished. The time had come to complete it. The necessary steps appeared to be simple enough. In the first place the legislative principle inherited from the

¹ E. Légier, *La Martinique et la Guadeloupe*, pp. 177-8.

second Empire, by which laws passed in the French parliament were only valid in the colonies when specially applied to them, should be reversed. All laws should apply as a matter of course unless specially debarred. Secondly, the islands should become departments and their Governors Préfets; but the Préfets, in view of their remoteness from Paris, should have special powers to act conferred on them. And so on with justice, finance and customs.¹

Finance and customs were the two subjects that attracted most attention, for past experience of autonomy in them had not been happy. The measure of it granted in 1833 had had to be restricted in 1841. Its subsequent revival by the second Empire had again led to increases in the subventions required to balance colonial budgets. Nevertheless contemporary free trade conceptions had inspired its further enlargement by giving the 'Conseils Généraux' control over the customs and octrois due on goods entering the islands. Again they had made embarrassing and unexpected use of the new power, having abolished customs so as to allow foreign goods to compete on equal terms with French goods, and having increased the octrois payable on certain French and foreign goods alike. This anomalous position, so contrary to the letter and the spirit of assimilation, had remained unchanged until 1884, when an agreement was reached by which the 'Conseils Généraux' restored the customs on foreign goods in return for a preference on their raw sugar.

Eight years later, under the influences of the current protectionist reaction and of the Colonial Conference, the tariff law of 1892 was passed. It was a reversion to the principle of the colonial pact in so far as all French goods were given free entry into the colonies. But it went farther than the pact, and was ultra-protectionist in that it denied colonial products the corresponding right of

¹ *Recueils des délibérations du congrès colonial national*, 8th session, 3rd section; C. S. Salmon, *The Caribbean Confederation*, p. 89; *Problems of Imperial Trusteeship: Native Education*, pp. 168-9.

free entry into France and required some of them, including cocoa and coffee, to pay half the duty levied on foreigners.¹ In the following year an attempt to centralize all budgets was initiated, but was abandoned in 1900 a reaction having begun to set in. Hence the 'Conseils Généraux' preserved their budgetary authority, without, however, the control over their tariffs.

The Colonial Conference of 1900 deprecated the similarity of procedure which its predecessor of 1890 had prescribed for all colonies regardless of their diverse circumstances. In 1896 the 'Union Coloniale Française' had been founded to oppose centralization and unification. 'Association' and not 'Assimilation' became the new watchword, and the 'mise-en-valeur' of the Empire as a whole took the place of the narrower conception of the colonies as subservient to France.

The change has not benefited Martinique and Guadeloupe because they appear to be incapable of further development and to be unable to break with their past. Sugar-cane still remains their principal crop, and although its handling in central mills and distilleries is an improvement on slavery methods, the competition in the world market has been an overwhelming counterpoise. Nor has any progress been made in substituting some other more profitable export. Half-hearted attempts have been made with cocoa, coffee and fruit, but the results have been meagre. The people seem willing to acquiesce in the stagnation that has descended upon them. They have not felt the want of roads, railways, quays, cold-storage and Agricultural Departments. They have been content with antiquated facilities.²

¹ A. Girault, *The Colonial Tariff Policy of France*, Part I, caps. v, vi, Part II, cap. i; J. Harmand, *Domination et colonisation*, cap. xiii. The half-duty on colonial secondary products was withdrawn in 1913.

² Chemin Dupontès, p. 292; A. Sarraut, *La mise-en-valeur des colonies françaises*, caps. ix and x; Légier, p. 169; De Lanessan, *L'Extension coloniale de la France*, pp. 738-40; S. H. Roberts, pp. 507-9. Lafcadio Hearn, *Two Years in the French West Indies*, p. 73. The railway to the East of Martinique, planned when Hearn was there in 1887, was still unbuilt when Albert Sarraut included it in his programme of improvements in 1924.

CHAPTER IV

THE BRITISH

THERE were two obstacles to mitigating the lot of the slaves in the British West Indies. The first was that slavery from its very nature was incapable of compromise. The San Domingo revolt became the proverbial example of the danger of ignoring this basic fact. The relations between master and slave might be governed by custom in ways favourable to the slave, but this was not the same as amending the law in such a way as to make the master actionable if he offended against the custom. Hence the practice of slavery throughout the British West Indies in the second half of the eighteenth century was milder than the law which had never been amended to conform to it. The old law remained the basis of the impassable barrier of colour on which society was founded, and so long as it was there a certain latitude was permissible. The disadvantage of this understanding was that the old laws were quoted by abolitionists as really representing existing conditions; and the planters, other than those in Barbados who were the most stubborn opponents of any amendment, were obliged, before the San Domingo revolt, to enact a series of statutes consolidating and revising their slave-laws. The amendments introduced into them, though heralded in Jamaica 'as changing the whole system of the law',¹ made little difference in practice, for they were administered, not by independent magistrates, but by the slave-owners themselves according to the existing custom. Thus the power given to magistrates and vestries to interfere to protect a maltreated slave was exercised by those who believed in the principle of the old law. Wantonly killing a slave, previously a felony with benefit of clergy, was now made murder without benefit. But the change was more apparent than real, for no coloured man, whether free or slave, could

¹ *P.P.* 1789, xxvi.

give evidence against a white,¹ nor could any but white men serve as jurors. A conviction therefore was almost inconceivable.² The old slave-law in Barbados was described as repulsive in its harshness in theory, but 'often mild to imbecility in practice'. The penalty of £25 for killing a slave was not amended until 1805; but in the first case tried under the new law the jury unhesitatingly found that the evidence was insufficient to convict. The admission in 1817 of free coloured persons to give evidence, provided they had been baptized and instructed in the principles of the Christian religion, was hailed as manifesting 'most gratefully as well as conspicuously' 'the improved spirit of the age'. The grandiloquence of the language shows how revolutionary this small advance appeared to be.³

The second obstacle to the mitigation of slavery was the growing economic difficulties of the West Indian sugar planters. They had benefited at first from the San Domingo revolt because it removed that large sugar producer from the market. But others even more formidable soon filled the vacancy, while the disturbed state of Europe curtailed the demand. At the same time production in the British West Indies was hampered by interruptions in their commercial relations with the United States on which the planters depended for their supplies of lumber and provisions. They had also to meet war taxation from which their competitors were immune, while the latter could still recruit their labour through the slave-trade after 1807. A variety of palliatives were applied to these handicaps, but without success. Finally, in 1822 trade with the United States was again permitted. But by this time the planters were too involved

¹ Except in prosecuting a white man who had assaulted him. See *The Atlantic and Slavery*, p. 280. Free coloured testimony was admitted in all cases in Jamaica in 1813 and in Barbados in 1817. See below, p. 113.

² Bryan Edwards, *History of the West Indies*, ii. 187-225. The 1792 Jamaican slave law. See also Second Report of the Jamaican Assembly, 12 Nov. 1788 in *P.P. 1789*, xxvi; Mrs. Flanigan, *Antigua and the Antiguans*, i. 126-9, gives a résumé of the Leeward Islands law.

³ *P.P. 1825*, xv, p. 10; Schomburgk, *History of Barbados*, pp. 421-2.

to take advantage of the opportunity. Moreover it resulted in a demand from the East Indian producers, whose competition had increased since the withdrawal in 1813 of the trade monopoly of the East India Company, that the preference of ten shillings a hundredweight accorded to West Indian over East Indian sugar should be abolished.¹

One of the remedies suggested to the planters was that they should increase the production of provisions and organize Agricultural Societies.² The principle on which slaves were fed differed between islands. The Leeward group, which suffered from droughts and which were small and occupied by plantations, depended on importing. In Barbados, which was also fully cultivated, the slaves' food was grown on the same system as the sugar; but they had opportunities of raising vegetables in the ground surrounding their huts, which were separated from each other on account of the risk of fire. In Jamaica, where ample ground was available, slaves fed themselves by the produce of their gardens. This was one of the points on which the revised slave law expressed what had already been established by custom. It required owners to allot a sufficient quantity of land for every slave in his possession, to give him sufficient time to work it, and also to plant at least one acre for every ten Negroes and keep such provision grounds in proper order. The slaves were to be allowed two days' holiday at Christmas, one at Easter and one at Whitsuntide, and one day in every fortnight, except during crop time and exclusive of Sunday, that is to say seventeen days a year, to cultivate their gardens. Their production of ground provisions was one of the features of Jamaica. They fed themselves and had a balance, as some abolitionists complained, to indulge in spirits 'and other sensual gratifications'. Every industrious Negro raised pigs and poultry. Every parish had its settlement for breeding them and cultivating vegetables.

¹ W. L. Mathieson, *British Slavery and its Abolition*, 1823-38, pp. 124-5.

² P.R.O. CO/137/121. Dispatch of 19 Jan. 1808.

This may perhaps account for 'the frankness and boldness' of slaves in accosting whites in Jamaica.¹ The Negroes' affection for the places where they lived was noted as a promising characteristic:²

'Cultivating the ground so as to raise provisions for their own sustenance had a tendency to beget habits of industry, to civilize and attach slaves to the places where such provision grounds are and to promote their domestic happiness.'

Therefore the more they were left in undisturbed occupation of their gardens the better. But there was one fatal obstacle to giving them any legal protection against removal. It would reduce the security of creditors and mortgagees whose right it was to seize slaves at any time and sell them in satisfaction of their owners' debts. This was generally admitted to be one of the greatest hardships. But the financial embarrassments of the planters prevented any remedy.

The slow progress made in improving the conditions of slavery gave a fresh impetus to the abolition movement in England and led to the founding of the 'Society for the Mitigation and Gradual Abolition of Slavery' in 1823 under the leadership of Thomas Fowell Buxton, who supported attaching the slaves to the soil and forbidding their sale apart from the land. The Government also became active on the subject and adopted a programme of reforms to enforce in the islands under its direct control and to recommend to the legislatures of the others. Trinidad was among the former. It became therefore a field for the Government's experiments, and our discussion will be confined to it, for it also had an interesting and lively free coloured problem, to be dealt with later.

Trinidad had been a Spanish possession until it was taken by the British in 1797, and little had been done to develop it. In 1783 it contained no more than 310 slaves,

¹ P.P. 1789, xxvi, Answers to questions, Barbados and Jamaica. Jamaica slave act of 1702, sections 2, 3, 17, 19; Mathieson, pp. 91, 95, 107.

² P.R.O. CO/285/6.

but an assisted immigration policy had been inaugurated in that year¹ and had attracted a number of French and free coloured refugees from the Negro domination of San Domingo. In addition British immigrants began to come in after the occupation, and by 1803 the slave population had risen to 20,464. Thereafter it remained fairly stationary and was no more than 23,117 in 1823.² The island remained subject to Spanish law, which in respect of slaves had been consolidated by a 'Cédula' of 1789. This enactment forbade slaves working either for themselves or their masters on church festivals and Sundays, thus ensuring them exemption from labour on 82, and with Sundays 134, days in the year. In addition it gave them two hours on every other day to themselves. It required them to be lawfully married. It ordered local governments to investigate cases of ill treatment reported by the priests who went to estates to say Mass, and to appoint inspectors to visit properties three times a year.³ It did not, however, legalize the customary right of a slave to purchase his freedom for a fixed sum and to pay it by instalments, thus enabling a slave to free himself by his own exertions and so qualify for his new status. To what extent this right was operative among the plantation slaves is doubtful, but it was frequently in use among domestic and artisan slaves in the towns.⁴

Lord Bathurst did not allude to this customary right to purchase freedom in his circular dispatch of 9 July to all West Indian Governments. The right was inapplicable to the British Colonies. The chief points he advocated were: (1) the religious instruction of the slaves; (2) the admission of the testimony of any slave who held a certificate from his religious instructor that he understood the nature of an oath; (3) the prohibition of the sale of

¹ See below, p. 110.

² P.R.O. CO/295/6; Fraser, *History of Trinidad*, ii. 211.

³ African Institution, Fifth Report, pp. 93-102.

⁴ R. R. Madden, *Address on Slavery in Cuba*; Mathieson, pp. 35-8; W. Walton, *Present State of the Spanish Colonies*, cap. xxi; *Anti-Slavery Monthly Reporter*, ii. 253-8.

slaves in execution, and the breaking up of families at sales—he did not suggest attaching the slaves to the soil; (4) the encouragement of lawful marriage among slaves, and the exemption of the mother of a certain number of legitimate children from labour; (5) the more effective protection of slaves and control of punishments. He added in a confidential dispatch of the same date, the adoption of a task system, wages being paid to a slave who worked after completing his task, and the emancipation of all children born after a certain date.¹ The Government did not include the two last in the reforms it introduced into Trinidad. On the other hand it confirmed the slave's customary right to purchase his freedom at an appraised value, it provided machinery for completing the transaction in cases where an owner was in the hands of creditors or mortgagees, and it established Savings Banks where slaves could accumulate their funds. But on one important point a slave's position in Trinidad was worse under the British than it had been under the Spaniards because the days he had to himself apart from Sundays had been reduced by a Proclamation of 1800 to the Jamaican seventeen. Even these were not secured to him by the Government's Trinidad Order-in-Council of 1824 giving effect to the reforms for, as Lord Bathurst pointed out, that document deprived an owner of the services of his slaves on no day except Sunday.² The easy-going customs of a Spanish colony were unsuited to a British. Nor were they faithfully observed in the plantations of Cuba when that island began to be active as a sugar-producer. It was almost a contradiction in terms legally to recognize slavery and then to declare that more than a third of the slave's time was to be his own. Nevertheless, compared with eighty-two days, seventeen days a year was a small allowance of time for a slave to earn his freedom by his own exertions, if he were to do it

¹ L. J. Ragatz, *The Fall of the Planter Class in the British Caribbean*, pp. 414-15. This book is a mine of information and of references.

² P.P. 1825, xxvi. On the other hand the proclamation of 1800 still remained in force.

without working on Sunday; and the reformers demanded that Sunday should be a day of rest and religious instruction. They also insisted that the practice of devoting that day to the marketing of slave produce should be forbidden and another week-day substituted. The Trinidad Order-in-Council abolished Sunday markets in principle, but allowed them to continue for the time being, 'for the due and reasonable encouragement of the slave population in habits of industry', on condition that they closed not later than ten in the morning.

These proposals were in accordance with the Government's declared policy of preparing the slaves 'for participation in those civil rights and privileges which are enjoyed by other classes of Her Majesty's subjects in as short a time as was compatible with the well-being of the slaves, the safety of the colonies, and the reasonable interests of private property'.

The slave owners of Trinidad were naturally opposed to the Order. The reforms they were willing to agree to were: 1. Religious instruction for the slaves. 2. An increase in the number of days allowed them to work in their own gardens from seventeen to twenty-six. 3. The reduction of the daily hours of work on the plantations to sixteen in crop time and thirteen in the off-season. 4. The institution of a slaves' savings bank. They more particularly objected to the clauses of the Order governing punishments, which made an owner guilty of a second offence liable to the confiscation of his slaves. But the owners' approach to the problem differed from the Government's. While accepting amelioration in principle they refused to contemplate eventual emancipation. It was 'dreadfully alarming to the proprietors and the numerous creditors, mortgagees, annuitants, and others trusting to a long established system'.¹ But the Government admittedly had this bugbear in view. The same obstacles prevented the legislatures of the self-governing colonies responding at all effectively to the Government's lead.

¹ Bryan Edwards, *A speech delivered at a free conference between the Council and Assembly of Jamaica.*

In Jamaica, for example, slaves were protected from being seized in execution on Saturdays and Sundays, but remained liable to it during the remainder of the week. Manumission was made more easy. Slaves were enabled to receive bequests of personal property without, however, any right to sue in court for them. Previously, their right to own property had been recognized by custom only. The local justices and vestries remained the protectors of the slaves. No independent authority was appointed. The result was that when emancipation came in 1833 little if any progress had been made in preparing the slaves for it.¹

While slavery was being discussed in Trinidad the parallel problem of the free Coloured demanded equal attention. Its importance can be gauged from the following table:²

| | 1783 | 1799 | 1809 | 1819 | 1829 |
|-----------------|------|--------|--------|--------|--------|
| Whites . . | 126 | 2,128 | 2,589 | 3,716 | 4,326 |
| Free Coloured . | 295 | 4,594 | 6,384 | 12,485 | 16,412 |
| Slaves . . | 310 | 14,112 | 21,475 | 23,691 | 22,436 |

The 'Cédula of Population' authorizing the immigration of foreign colonists to Trinidad in 1783 offered each settler a land grant proportioned to the number of whites and slaves introduced by him.³ The same principle applied to coloured immigrants, but for them the land grants were half the standard sizes for whites. In other respects the two were treated equally. Coloured as well as whites could become naturalized and, after five years residence, could enjoy the rights and privileges of Spanish colonials. Both were exempt from taxation for ten years. Both could import slaves free of duty for the same period. A large number of free Coloured left San Domingo when it fell under the domination of the Negroes and settled in Trinidad attracted by these terms; and when the island capitulated to the British their liberty and property were

¹ *P.P. 1826-7, xxiv.*

² *Fraser, ii. 211.*

³ Cf. *The Atlantic and Slavery*, cap. iv (2).

secured to them equally with the whites, subject to their taking the oath of allegiance.¹ But many, being suspected of French Republicanism, were not encouraged to stay and they departed. Nevertheless, as the figures show, the free Coloured population increased far more rapidly than the white.

After Trinidad was finally ceded to the British in 1802, the British colonists began to agitate for an elected Legislative Assembly like that of Jamaica and Barbados. But in Trinidad in 1809 the free Coloured were 21 per cent. of the population, while the whites were only 8·4 per cent. Moreover, the whites were divided into British, Spanish and French groups in about equal proportions. Was this situation favourable to representative institutions? The British Government thought that it was not. Lord Liverpool, in a dispatch of 1810, pointed out that in other colonies the free Coloured community had grown up gradually and had thereby become in some degree reconciled to occupying a middle position between whites and slaves. In Trinidad, on the other hand, they were the large majority of the free inhabitants. Could they, therefore, be excluded from political rights, even if the terms of the capitulation did not forbid it? Then again the French and Spanish colonists were not accustomed to British institutions. Finally, until the slave-trade was abolished the Government could not divest itself of control. These objections were reaffirmed twelve years later by Henry Goulburn. The effect of the British constitution in the slave colonies, he argued, was to place the power in the hands of the white oligarchy to the exclusion of every other class. If the precedent were followed in Trinidad and the white minority were given political control, the great mass of the free community would suffer by being deprived of the equal status they enjoyed under Spanish law which was still in force.²

¹ The 'Cédula of Population' and the Capitulation are given in the Appendices to Fraser's *History of Trinidad*.

² Fraser, i. 334-6, ii. 139. Not until 1924 did Trinidad have elected representatives in its legislature.

By Spanish custom, however, all the free Coloured did not enjoy equality of social status. A complicated system of colour gradation governed social intercourse and led to the free Coloured who were closely akin to Negroes being differentially treated in a variety of ways.¹ They were, for example, excluded from official posts and from the priesthood. They were not permitted to kneel on a carpet in church, nor to have Indians in their service. But they might purchase dispensation from these restrictions, and at any rate those who were nearer akin to the whites were not subject to them.² The British in Trinidad ignored these complicated customs. With them all free non-whites, who were not Indians,³ were just 'Coloured', and any regulation applying to them applied to all irrespective of their ethnological or social status. Hence the better-class Coloured were aggrieved when they were forbidden to hold dances without the permission of the local commandant and without a licence costing 16 dollars. They complained of not being addressed as Mr. and Mrs. They objected to compulsion to serve in the thankless post of Alguacil from which whites were exempt. They resented being coupled with slaves in the curfew regulations of Port of Spain. They protested against being required to describe themselves as 'Coloured' in legal documents, and against an order of 1822 which made slaves and 'free persons' subject to summary and corporal punishment for petty thieving.⁴

A spirited reply to these grievances was sent to the British Government by Governor Sir R. Woodward in 1824. He pointed out that Coloured balls in out-of-the-way places often became 'revels of Bacchanals', and that no respectable entertainment was interfered with. As to the complaint of being denied the dignity of Mr. and Mrs., he recalled that the Coloured had no right to the distinctions of white persons in the Spanish colonies and

¹ Cf. *The Atlantic and Slavery*, pp. 220, 247.

² Walton, pp. 146-7.

³ Indians were enumerated separately in the census.

⁴ Fraser, ii. 145.

that the whites were not prepared to surrender the point, nor the separations in churches and cemeteries. On the other hand whites were now compelled to be Alguacils, so that this grievance no longer held. In defending the order of 1822 Woodward used the same quibble as did the National Assembly in Paris in March 1790 when it granted the franchise in San Domingo to 'all persons' with certain qualifications. The term 'free persons', he claimed, included whites. But every one in Trinidad knew that it referred only to coloured. The British Government refused to be moved by these arguments, and by an Order-in-Council dated 18 March 1829 abolished all civil and military distinctions between British subjects of any colour.¹ The example was grudgingly followed elsewhere in the West Indies. Both in Jamaica and in Barbados Christian free Coloured had already been admitted as witnesses in all cases, and their political disabilities were removed—in Jamaica in 1830 and in Barbados in 1831.² Hence when the slaves were emancipated, all the king's subjects in the West Indies were equal before the law.

¹ P.R.O. CO/295/63, 70; Fraser, ii. 227. In 1818 a steamboat was put into service at Port of Spain with separate cabins for white and coloured, the charge being the same for both. On the Coloured objecting the Governor pointed out that the boat was controlled by a committee of subscribers and not by him. There was a third cabin for slaves at half the price of the others.

² Schomburgk, pp. 401, 431-2.

CHAPTER V

THE BRITISH

SO long as slavery existed labour conditions were uniform in the British West Indies in so far as the planters had a certain labour force that they could rely on at any time. As the demand for labour on a sugar estate was not consistent throughout the year, this assurance was an obvious convenience. It was an offset to the many disadvantages and weaknesses of slave labour. The adjustment of free labour to the fluctuating demand was far more difficult. Both the planters and the freedmen were shy of settling it by entering into engagements, for a contract would bind the former to pay for labour when they did not want it, and the latter to work when they wanted to be free. The busiest times on the plantations and on the provision grounds were the same, and naturally the freedmen preferred their own work. Moreover, in slave days working gangs could be hired. This was no longer possible after emancipation; hence mutual recriminations and a controversy the echoes of which have not yet died down.¹ It was more virulent in 'undeveloped' islands like Jamaica, than in 'developed' islands like Barbados. In Jamaica the practice of the slaves growing their own food had inured them to supporting themselves on the produce of their own gardens. This had been regarded as a stabilizing factor under slavery. It was less welcome when under freedom it became an alternative to wage-earning. But it gave the planters the opportunity to use garden rents as a lever to keep wages down; while the freedmen, knowing how dependent the planters were on them, objected to the rent, which they had not paid as slaves, and demanded higher wages.²

¹ For its latest revival, see Lord Olivier, *The Myth of Governor Eyre*, caps. ii-v; and for a more judicial treatment, W. L. Mathieson, *The Sugar Colonies and Governor Eyre*.

² P.P. 1839 (107), xxxv; 1840 (282), xxxv, Barbados, pp. 53-88;

It had been generally recognized that the passage from slavery to freedom should if possible be gradual. It was with this object that the 'Society for the Mitigation and Gradual Abolition of Slavery' had been formed in 1823, and that the Government had pressed ameliorating legislation on all the slave colonies. The same purpose had dictated the inclusion of a six years' period of apprenticeship between slavery and freedom in the Act abolishing slavery. Nevertheless, when this period was brought to an end after four years, in 1838, little had been done to adjust labour conditions to freedom, and the transition was in reality as sudden and unprepared as it was afterwards in the French colonies. Moreover, the British Government's attitude towards the resultant problem of fitting the freedmen into colonial society resembled the French in its reliance on assimilation. The three successive French Republics acted on the principle that white, coloured and black should be left to work out their destinies in an equal freedom. Likewise the British Government in 1838 proceeded on the assumptions that the freedmen should be subjected to the same economic stresses as were at the time considered to be the salvation of Britons; and that its function was to see that the field was kept open for their operation. Consequently its attitude was more defensive of the freedmen's personal rights than constructive of new and more favourable conditions for them; and the Baptist missions alone were active in establishing village settlements.

Lord Glenelg was Colonial Secretary in 1838. He was an Evangelical and a determined opponent of forced labour, however disguised as a payment of rent. He refused to assent to labour legislation that did not conform to model Orders-in-Council that he promulgated for Trinidad. He continued in office the stipendiary magistrates who had been appointed under the Act abolishing

1841 (Session 2), iii, Jamaica, p. 82; 1842, xxix, Barbados and Trinidad, pp. 62 ff., 103. For Barbados see also W. G. Sewell, *The Ordeal of Labour in British West Indies*, pp. 31-2, and P.P. 1876 (C. 1539), pp. 139, 203.

slavery to be judges between the freedmen and their former owners during the six years' apprenticeship, and who were paid by the British Government; thus removing the administration of the laws from the local planter magistracy.¹ Lord John Russell, his successor, followed in his footsteps. He relied on the 'knowledge of the labourers that they are free to transfer their persons from estates where they are treated harshly to those where a more liberal management prevails' to prevent the introduction of any form of compulsory labour.

'If it is the custom on one estate to make the possession of a cottage and provision grounds contingent on the labour of the tenant on the estate, the labourer will soon find that, at no great distance, a more just view of the duties and interests of the proprietors has introduced a separation of rent and wages, and an entire freedom from restrictions burdensome to the labouring class.'

With the object of achieving the divorce of rent and wages, he disallowed a Jamaican Act of 1840 facilitating the recovery of tenements. He thought the Negroes' refusal to pay rent in the form of labour was reasonable. They should pay it in money and receive their wages in money. But they on their part should realize that the exaction of rent was legitimate; and he suggested making it known in the West Indies that labourers in England, where wages were lower than in Jamaica, paid up to £5 yearly for their cottages. This confidence in unchecked individualism as a solvent of the aftermath of slavery was shared also by philanthropists like J. J. Gurney who visited the West Indies in 1840. He consulted with the coloured secretary of the Department of Stipendiary Magistrates and agreed with him that freedom would solve the problem if it were not interfered with by unequal laws and unjust practices. 'Let freedom alone and all will be well.'²

It was Sir Henry Barkly who, as Governor of Jamaica in 1854, drew attention to the harm that had been done

¹ *P.P. 1839 (107), xxxv, p. 1; 1847-8 (419), xliv.*

² *P.P. 1841 (Session 2), iii. 125, 129; J. J. Gurney, A Winter in the West Indies, p. 114.*

to the Negroes' character through 'the disappointment resulting from the over-estimate put forward on all sides of their advancement in civilization' in the years following their emancipation. In order to inform himself on the subject, he revived the practice that had been abandoned of the stipendiary magistrates reporting annually on the condition of the people. The reports sent in showed with two or three exceptions that the progress was disappointing.¹ No other result could have reasonably been expected in the circumstances. The gift of freedom could not by itself transform the recipients or endow them with a nineteenth-century European conception of utility as the proper test of progress. Moreover, emancipation had been still less effective in improving the attitude or the outlook of the Jamaican planters. They had neither the financial resources nor the will to reorganize their industry and break with the past. So they continued in their old courses, and sought relief from their difficulties in importing indentured labour and in maintaining their protected position in the British market. Both remedies were a continuance of old conditions. But the first failed through mismanagement before 1883; while the second soon passed away owing to the British Government becoming committed to free trade and to the equalization of the duties on British and foreign grown sugars.

This change in the sugar duties was also part of the new principle of *laissez-faire*, and was defended by Lord John Russell on the now well-trodden ground that

'it is competition and competition alone that does bring out the enterprise and economy of a people. . . . Give the same stimulus to exertion to the West Indian colonies and my opinion is that, instead of seeing them fall, we shall see them rise and flourish more than they have done for many years under the system of protection.'

Nor was the prediction unjustified as regards Barbados, where conditions were more favourable to it than they were in Jamaica. The island was developed. The density

¹ P.P. 1854, xlvi, Reports of Stipendiary Magistrates; Mathieson, *The Sugar Colonies and Governor Eyre*, pp. 18-21.

of its population was 817 to the square mile. The freedmen had no adequate alternative to earning a living through wages. The planters' labour problem was less acute. Moreover, they were more progressive, and fewer of them were absentees.¹ Thus sugar has remained ever since the staple product of Barbados, while exports from Jamaica have become more diversified, and small-holdings more numerous.²

On the political side, not less than on the economic, the British Government relied on the passage of time to fit the freedmen into the body politic. In this field, however, a greater degree of discrimination was necessary. Lord Glenelg as an Evangelical was no believer in French revolutionary theories of universal suffrage. He was convinced of the wisdom of a property qualification, and 'in the peculiar circumstances of West Indian society' he favoured adding to it an education test. But both must be low enough to allow of 'a very large proportion of the adult males' voting. He asked to be informed of the number of Negroes who had acquired freeholds of sufficient value to qualify them for the franchise—information that could not be supplied to him as separate records were not kept of Negro freeholders. Lord John Russell also foresaw that:³

'In the course of no long time the Negro labourers and artisans will probably acquire a powerful if not predominant influence on the elections.'

Both Jamaica and Barbados possessed long established Legislative Assemblies which, so long as slavery was the controlling factor, represented adequately the dominant free white population and the modicum of the free

¹ *P.P. 1876*, llii. 71-2; 'Remarks on the Present State of the West Indian Colonies', p. 19; W. L. Mathieson, pp. 99-100; J. Davy, *The West Indies before and since Emancipation*, pp. 109, 127-8, 144.

² One-tenth of the Barbados population is said to own small-holdings, while one-fifth of the Jamaican population may be said to possess real property. Macmillan, *Warning from the West Indies*, p. 91; Lord Olivier, *Jamaica, the Blessed Isle*, p. 273.

³ *P.P. 1839* (107), xxxv. 20-2; 184 (Session 2), iii. 100.

Coloured who had votes. The slaves of course had no right to be considered. But the situation was different after emancipation. The question then arose: Could the existing constitutions that had grown up under slavery be allowed to continue untouched and unamended? Originally created to pass laws, the Assemblies had acquired a control over both the raising and expending of the revenue which deprived the executives of initiative and authority. At the same time, they were subject to the executive's control because the Governor's Privy Council was also the Legislative Council, without whose assent no measure could become law. Thus if the Legislative Council vetoed a bill passed by the Assembly, or if the Imperial Government disallowed it, or passed an act applicable to the West Indies of which the Assemblies disapproved, they could retaliate by withholding supplies or by voting money tied up by stringent conditions. The only means of overcoming the deadlock was either a dissolution or a change of executive. But the former remedy was ineffective because the fewness of the voters and the predominance of the planter interest made certain that the new bodies would be the same as the old, while the alternative was no solution because the executives, being appointed by the British Government, were not answerable to the Assemblies. The smooth working of the constitution, therefore, depended on the continued agreement of the two. The Assemblies at the time of emancipation were controlled by the white planting interest. Could it, in the new circumstances, combine with the coloured and black elements so as to produce anything like a representative system? Was not an oligarchy still inevitable, with the added danger that it might now ultimately be coloured? Fear of these possibilities had influenced the British Government's refusal to set up representative institutions in Trinidad. A similar course was suggested to them for Jamaica.¹ It was, however, easier to withhold a constitution than to tamper with one that had been in existence for nearly two centuries; and Lord Melbourne's

¹ Sir Henry Taylor, *Autobiography*, i, cap. xv.

attempt in 1839 to suspend the constitution of Jamaica for five years, as a punishment of the Assembly's refusal of supplies, ended in the fall of his ministry.

The constitution being thus retained, the franchise became a matter of importance. The chief qualification for it in Jamaica when slavery was abolished had been the possession of a freehold of an annual value of not less than £10.¹ In 1837 the Assembly increased this limit to £30.² Three years later, in 1840, it reduced it again to £6, subject, however, to voters being required to register at least six months before an election. Lord John Russell, on receipt of this bill, reserved the Government's decision on it until it had been tested by experience. In due course it became law.³ How many of the freedmen it would admit to the franchise was unknown. Bigelow, an American writer who visited Jamaica in 1850, declares that the possession of four or five acres gave them the vote, hence their anxiety to acquire land. He estimated the number of coloured proprietors at a hundred thousand, a figure also quoted by Sir Henry Barkly. That it was an exaggeration which included renters as well as owners is clear from the return for 1882 of 52,608 small holdings, of which 43,707 were under ten acres. Nevertheless there can be no doubt that numerous freedmen were qualified;⁴ and Sir Charles Metcalfe looked forward to the 2,199 voters registered in 1840 being largely increased under the act of that year.⁵ But apart from the characteristic apathy of Negroes about the white man's political busi-

¹ For purposes of clarity we omit the alternative qualifications.

² Acts 71 of 1780, vi; 7 Will. iv, cap. 10.

³ 4 Vict. cap. 31; P.P. 1841 (Session 2), iii. 239. Previously a voter might be called upon to declare that his land title had been recorded in the Office of Enrolments for twelve months before the election.

⁴ J. Bigelow, *Jamaica in 1850*, pp. 115-16; Lord Olivier, *Jamaica, the Blessed Isle*, p. 149; P.P. 1898 (8655), 1. 61; E. B. Underhill, *The West Indies*, pp. 335, 387, declares that the value of an acre of provision ground near St. Anne's Bay was 'from £12 to £17' and that a man with 3 acres near Falmouth could make £2 a week if he were industrious.

⁵ J. W. Kaye, *Life and Correspondence of Charles, Lord Metcalfe*, p. 381; P.P. 1841 (Session 2), iii. 100.

ness, the requirement of the six months' registration in advance would suffice to account for their failure to register—especially after the obstacle had been heightened in 1858 by making the registration annual and by coupling it with a stamp duty of 10s.¹ Consequently in 1860 the voters' roll still contained no more than 2,522 names.² Nor did the exemption from the registration fee of free-holders who had paid £1 or more in direct taxation improve matters for the freedmen.³

The coloured people, on the other hand, began to play a greater part in local politics. But they did not necessarily support the Government against the planters. The latter, together with the merchants connected with the planting interest, had become the 'country party', which Sir Charles Grey in 1852 accused of wishing to break down the local institutions in order to bring the Government more under mercantile and London control. The coloured members of the Assembly, who formed the 'town party', had no such aim. They hoped at no distant date, so Grey declared, to have command of the Assembly and wished to preserve its control over finance. Only three of them, therefore, voted in the minority of five who supported the Governor in 1838, the hostile resolutions being carried by a majority of nineteen with eighteen members absent.⁴ And so also in 1853, when the country party refused supply unless the Government's expenditure was reduced, the resolution was carried by thirty-five to two, with ten absent. Nor were the Coloured averse to a grading down of salaries that would make Government posts less desirable to Europeans and more in keeping with their own more modest standards.⁵

Upon this repetition of deadlock the British Govern-

¹ 22 Vict. cap. 5.

² P.R.O. CO/142/74.

³ P.P. 1866, li. 514.

⁴ P.R.O. CO/140/129, 31 Oct. 1838. Sir Henry Taylor puts the number of coloured members in 1838 at twelve. Two of those who voted in the minority were not returned at the next election.

⁵ P.R.O. CO/140/149, 2 Feb. 1853. P.P. 1852-3, lxv. 5-9; Mathieson, pp. 124-5.

ment sent out Sir Henry Barkly to restore order and secure amendments of the constitution. Two reforms were necessary. The first was to separate the Privy Council from the Legislative Council. The second was to create some link, such as exists in responsible governments, between the executive and the electorate. The first reform was accomplished easily enough. The Legislative Council and the Privy Council were divided. The second was more difficult, and resulted in the creation of an executive committee with somewhat vague powers and responsibilities, whose members drew moderate salaries that would appeal rather to coloured than to white aspirants to office. The new arrangement worked indifferently until the constitution was abrogated in 1866.¹

The riot at Morant Bay on 7 October 1865 induced the Assembly to consent to its own destruction. But we need neither describe the disturbance nor discuss its causes. Nor need we pause to comment upon the fear it aroused of a general Negro rising, nor upon the extreme measures taken to suppress it. We can, however, assert with confidence that the resultant abrogation of the constitution was ultimately for the welfare of the people of Jamaica. The following list of reforms that were rapidly effected by the new Crown Colony administration speaks for itself. An up-to-date Medical Department and service were instituted. Forty medical officers were appointed and parochial hospitals were established. A Land Survey Department was founded and provision was made for the forfeiture of abandoned estates on which taxes were overdue. A government savings bank was opened. The postal service was overhauled and extended. The Anglican Church was disestablished. The Departments of Education and of Public Gardens and Plantations were founded. The police force was reorganized. A large irrigation scheme was initiated and generally there was a marked improvement in the conditions and prospects of the island.²

¹ Mathieson, 129; Hume Wrong, *Government of the West Indies*, cap. iii.

² Olivier, *Jamaica, the Blessed Isle*, p. 189.

In the meantime the old constitution continued to function in Barbados. Circumstances were more favourable to it. The complete development of the island obstructed change and promoted conservatism. The leading qualification for the franchise was a freehold of not less than £20 annual value. The constitution required the twenty-four members of the House of Assembly to be annually elected, but the frequent recurrence of polling did not enliven interest, as the following table of election returns at five years' intervals shows:¹

| Year | Number of registered voters | Number of contested elections | Number of votes recorded |
|------|-----------------------------|-------------------------------|--------------------------|
| 1854 | 1,380 | 1 | 76 |
| 1859 | 1,199 | 1 | 114 |
| 1864 | 1,438 | — | — |
| 1869 | 1,386 | — | — |

This comparative calm was rudely interrupted in 1876 by a crisis resembling those to which Jamaica had been accustomed. The immediate cause was a proposal to confederate the Governments of Barbados and of the Windward Islands. The Barbados planters violently resisted, as they saw in the reform a threat to their ancient constitution and to their control over finance. At the same time conditions in the island were far from satisfactory. The dependence of the workers on the sugar industry and the depressing effect of outside competition on prices had caused the standard wage of plantation labour to fall from 1s. 3d. a day in the 'thirties' to 10d. a day in the 'sixties', for five days a week, except during crop time, and subject to deductions for rent.² The planters refused to admit that there was any political or social discontent among the workers; and they attributed the increase in cane fires, which was quoted as proof of it, to the open espousal of the workers' cause by the Governor, Sir John Pope Hennessey. He, on his side, complained that his efforts at reform were frustrated by his constitutional subservience

¹ P.R.O. CO/33/64, 69, 74, 79.

² P.R.O. CO/33/50, 64; P.P. C. 1539, 1876, p. 139.

to the Assembly and by his having to share his executive functions with Legislative Councillors who were opposed to him.¹

These events inspired the British Government to decide that, 'emancipation having placed the various classes of the community in relations different to each other from those which existed when the present constitution was granted', a change was necessary. The replacement of the Constitution by a Crown Colony administration was impossible because, 'although such a constitution would not be created at the present day', its abolition was 'another matter'. An extension of the franchise so as 'to affect the constitution of the Assembly' could also 'not be entertained at present'.² Hence the deadlock was ended by appointing a new Governor and by amending the constitution in the same way as in Jamaica in 1854. An Executive Committee composed of four members of the Assembly and one Legislative Councillor was created, and the Privy Council was separated from the legislature. With these changes the old constitution still subsists; and its operation remains in the hands of a small minority, which, however, has grown in size since the qualifications for the franchise were lowered in 1884. Before that date the electorate numbered 1,641. In 1923 it was 3,252 or 2.1 per cent. of the population. In 1934 it was 5,058 or 2.8 per cent. of the population.

¹ *P.P. C. 1559, 1876*, p. 1; *1539, p. 212*.

² *P.P. 1880, xlix. 4 (4), 1884*, cap. xvi.

CHAPTER VI

THE BRITISH

JAMAICA did not long submit to being governed by a purely Crown Colony administration. The demand for a return to a representative system soon became insistent, and was expressed in 1883 in a petition to the British Government asking for an elective unofficial majority in the Legislative Council. The petitioners put forward certain suggestions for the franchise which departed from the former freehold qualification. In its place they made the unusually liberal proposal that every occupier of a dwelling assessed for poor rates as 'shingled and floored' should be entitled to register. For the purpose of poor rates houses were classified as follows:

1. Houses above £6 annual value paid 1s. 6d. in the £.
2. Roofed and floored houses with one acre or more of land paid 6s. a year.
3. Roofed and floored houses with less than one acre of land paid 4s. a year.
4. Roofed but not floored houses and with less than one acre paid 2s. a year.

The proposal, therefore, enfranchised all these classes except the last. As alternative qualifications the petitioners suggested the payment of at least £1 in direct taxation, or earning a salary of not less than £50. Lord Derby, who was Colonial Secretary, while admitting that the poor rate qualification would include more Negroes than it would have in 1866, was not willing on that account alone to agree to the British Government parting with its control. He would go no farther than an elective minority of nine in the Legislative Council, a number that was subsequently raised to fourteen, the Government retaining an official majority of one, together with the casting vote of the chairman.

The question of the franchise was referred to a local

Royal Commission whose members were more conservative than the petitioners. They accepted the house qualification, but tacked on to it a requirement that the occupier should have paid a total of not less than £1 in taxes. This addition made the qualification depend upon the amount of the property tax, which was assessed according to the size of the holding and on the use to which it was put,¹ as well as upon the poor rate. It had the effect of eliminating many small holders who would have been eligible under the petitioners' scheme. The Commission also raised the minimum limit of the taxpaying qualification to 30s. Furthermore it made all registrations subject to a literacy test of signing and dating a form; an innovation that was opposed by a minority of the members, on the ground that it would disfranchise the older Negroes who had had no chance of education when young. The Governor, Sir Henry Norman, was of the same opinion. He thought that the test would result in the 250,000 adult Negroes having far fewer votes than the 68,000 white and coloured adults; and as a compromise he recommended that it should become operative only after the first registration had been completed. Thereafter he believed it would act as an incitement to the rising generation of Negroes to become literate in order to be voters.² In this he was mistaken.

The Negroes did not share the political ambitions of the whites. They were not moved by a desire to become voters. Their experiences in the past had made them suspicious of representative institutions. Some of them who lived in Kingston and its neighbourhood, and who, being more under the influence of urban conditions than their rural compatriots, might have been expected to be more politically minded, gave their views on the subject to a Commission appointed in 1882 to inquire into West Indian finances. Neither they nor their fathers,

¹ Provision grounds paid 3d. an acre, common pasture land $\frac{3}{4}$ d., 'ruinate' land $\frac{1}{2}$ d. A holding not exceeding five acres paid 2s., not exceeding ten acres 3s. 4d. *Handbook of Jamaica, 1891-2.*

² *P.P. 1884, lv (C. 3854, 4140).*

they declared, had received any benefit from popular representation beyond a formal political recognition. All it had done was to give an artificial advantage to those who were able to profit by it, and only a questionable status to those who could not. Belonging as they did to the latter class, they preferred a Crown Colony administration, because it was superior to social and colour divisions.¹ In the rural areas this active opposition was replaced by indifference. The peasants, whether land-owners or not, regarded politics as not their concern, and left them to the whites. Nevertheless, as we shall see, a more active political consciousness began to emerge at any rate among the better-class Negroes before the end of the century.

The Commission on the franchise had calculated that fifteen thousand would qualify for the vote under its recommendations. But in 1885 the roll showed no more than 9,298 registrations, or one out of every sixty inhabitants. In these circumstances a bolder policy seemed possible, and in 1886 the Franchise Enlargement Law was passed. It reduced the tax qualification of a householder to 10s., and it abolished the literacy test by allowing a claim to be signed with a mark and attested by a collector of taxes or a Justice of the Peace. Registrations at once jumped up to 22,922, or one elector to every twenty-five people. Nor did the Act of 1893, which restored the requirement that any one claiming to be registered must himself sign and date the form, hinder the roll growing to 38,376 in 1896, or one elector to every eighteen persons.² The movement then suffered a serious setback, and the roll shrank to as low as 8,607 in 1905-6. The fall was due to the long-sustained depression from which the West Indies suffered at the end of the last and at the beginning of the present centuries, and which caused many voters to be disqualified through the receipt of poor relief. But the lost ground was more than recovered by 1921, by

¹ *P.P. 1884*, xlvi. C. 3840, pp. 163-5.

² Law 39 of 1893. The percentage of literates who could both read and write had risen from 11.5 in 1861 to 28 in 1891.

which date the franchise had been extended to females on a qualification higher than for men, the limits of age and tax payments being respectively twenty-five years and £2.¹ With this reinforcement the registration for 1921 was relatively equal to that for 1896, being 42,267, or one in twenty persons. Ten years later the proportion had risen to one in thirteen, there being 78,611 registered voters.²

Another indication that the representative side of the constitution is more appreciated is the recent increase in contested elections, although the number of electors who poll is still very low. In 1935 thirteen seats were contested, but only 38.2 per cent. voted.² Thus Jamaica has made some progress in applying democratic principles to a mixed community and in fulfilling the confident expectations of British statesmen a hundred years ago. The contrast with the one voter to every thirty-five persons in Barbados and that island's four contested elections in 1934 is marked. But it is only one of degree. The franchise is equally common in both, although more popular in Jamaica than in Barbados. In both islands political colour discrimination is unknown. Any Negro, who is qualified and who wishes, can register and vote without hesitation or risk. White, Coloured and Black are loyal to the same constitution and abide by the same law. But Barbados is more governed by the traditions of the past. There has been no political break as there was in Jamaica in 1866. Nor do physical conditions permit of changes in its economy.

While these developments were proceeding in Jamaica and Barbados, Trinidad remained under a purely Crown Colony administration. Belonging to the 'undeveloped' category of West Indian islands its problems resembled those of Jamaica rather than Barbados. Its unoccupied area was relatively larger than Jamaica's,³ but its Negro population was much smaller. Its labour problem, there-

¹ *Jamaica Laws*, cap. 269.

² *Handbook of Jamaica*, 1936, p. 55.

³ In 1845 land privately owned amounted to 207,317 acres, Crown lands to 1,080,352 acres. P.R.O. CO/300/56.

fore, was met by importing Asiatics, many of whom remained permanently in the colony. E. B. Underhill cordially approved of their arrival. They created, so he argued, a demand for carpenters, coopers, mule-drivers, engine-men and so forth, which the Creole labourers supplied, while opportunities of settling on the land prevented wages being reduced by competition. These justifications did not apply in Jamaica, where he opposed immigration because of its competition with the more numerous Negroes; and it is noticeable that one of the first acts of the newly elected unofficial members of the Jamaica Legislative Council in 1885 was to follow the example of the General Council of Martinique in 1884 and stop the immigration that had only been restarted two years previously.¹ There was no antagonism to indentured labour in Trinidad, and the large inflow added new racial elements to a population already so diversified as to make the question of representative government more complicated than it was in Jamaica or in any other West Indian colony.²

The Government decided in 1848 to make the approach, not through the Legislative Council, but through 'local affairs committed to local bodies'. Accordingly it established elective Town Councils in the three principal towns and divided the colony into wards whose rate-payers elected auditors to supervise local expenditure on roads. The experiment effectively established municipal institutions, but did little to facilitate the solution of the wider problem; and for ninety-three years, from 1831 to 1924, all the unofficial members of the Legislative Council were nominated.

In 1922 Mr. E. F. L. Wood (now Viscount Halifax) was commissioned to report on the constitutional position in the West Indies. The evidence laid before him in

¹ E. B. Underhill, *The West Indies*, pp. 53-4, 85-6; *A Letter addressed to the Rt. Hon. E. Cardwell*, p. 30. For the subsequent Asiatic immigration into Jamaica, see Lord Olivier, *Jamaica, the Blessed Isle*, cap. xxiii.

² The East Indians are a third of the population of Trinidad and only a fiftieth of that of Jamaica.

Trinidad was not unanimous. Those who favoured a change and claimed to represent the middle classes and the small-holders, appealed to the progress in education, the many peasant proprietors and the success of the three municipalities as justifications, and advocated a common franchise for all. The East Indian National Congress on the other hand, although in favour of reform, asked that their community should be specially represented through a communal franchise, and that the qualification for the vote should be the payment of direct taxes however small in amount. The Trinidad Working Men's Council recommended that the franchise should depend upon earning a wage of not less than \$20 a month, or the payment of a yearly rent of not less than \$96. Each proposal was thus calculated to suit the special circumstances of each interest. The chief body opposed to any change was the Trinidad Chamber of Commerce. It was satisfied with the government as it was. It saw no reason to alter it, for the island had prospered under Crown Colony administration and the system of nominating unofficial members of the Legislative Council had assured a fair representation to all sections of the community. The Agricultural Society also deprecated any change, whilst those East Indians who were satisfied with the Government as it was thought that the nominative principle was best suited to the existing diversity of nationalities. In the end the modest step forward was taken of making seven of the thirteen unofficial members elective on a common franchise resembling that of Jamaica.¹

Jamaica is spared the complicated racial diversity of Trinidad, but shares its advantage of ample land for agricultural expansion. The encouragement of small holdings has been the official policy for now forty years; and whatever part the Negroes may ultimately play in the government of the island will largely depend upon the use they make of their opportunities on the land. In assessing their performance up to the present it is necessary to

¹ Cmd. 1679 of 1922, 23-5; C. Reis, *A History of the Constitution or Government of Trinidad*.

remember that they have no inherited background or tradition to qualify them for the role. In their slavery they bore no resemblance to feudal serfs. Both their conception of property in land and their agricultural craft were more African than European. Landownership with them was not absolute and exclusive, and referred more to the produce of the soil than to the land itself; while their system of tillage depended upon periodic shiftings to virgin ground. Their propensity to squat on waste spaces, to buy land in combination and cut it up into small allotments and farm it in their customary ways were evidences of an African outlook, and were rightly deprecated and discouraged by successive governments as wasteful and unprogressive. But they were the Negroes' own interpretation of *laissez-faire*. The Government had no positive alternative to offer, except work on the plantations. Only the Baptist missions attempted any organized village settlement of the freedmen. But their finances were unequal to so large an undertaking, and they were soon heavily in debt. Moreover many contemporary philanthropists were inclined to the prevailing view that work on the plantations was the most hopeful approach to improved conditions.¹

Thus in the absence of any initiative or leadership in creating new conditions, the freedmen naturally conformed to the old. Not until the Governorship of Sir Henry Blake, who founded the Crown Land Settlement scheme in 1895, did the Government actively take a hand in the business. And the 43,707 holdings of under ten acres in 1882 became 81,924 at the end of the century. But still the old conditions were prominent. Of these 81,924 lots, 70,000 were of less than five acres, which was the minimum area the Government would alienate to a settler. The same criticism applies to the figures for 1930. The settled area of Jamaica, omitting house lots most of which were in the towns, was divided up into

¹ *Remarks on the present state of the West Indian Colonies*, p. 33; Underhill, *The West Indies*, pp. 285-6; *Life of James Munsell Phillipps*, pp. 244-5; J. J. Gurney, *Reconciliation Respectfully Recommended*, p. 5.

187,603 holdings, of which 153,406, or 82 per cent. were of from half to five acres. A large proportion were no more than half-acre plots with cabins reminiscent of slave days. As such they are of value to their owners, who can supplement the subsistence they supply by wage-earning; but they are inadequate as a foundation for a peasant proprietary. The five- to ten-acre lot is more suited to the purpose. Of these there were in 1930, 18,277, or only one for every ten plots of half to five acres.¹

From the point of view of the percentage of the population holding land in freehold tenure Jamaica is perhaps unequalled by any other country. No fewer than 210,236 of its total of 213,375 holdings are of less than fifty acres. The weakness of the position lies in its antecedents. Neither African usage, nor the background of slavery, nor the environment in Jamaica have conduced to the evolution of a peasant proprietary with a characteristic tradition of intensive labour. Nor need such onerous tribute for a living be paid in the tropics. On the other hand the greater profusion of nature makes scientific knowledge and direction all the more necessary. Both were absent from peasant culture in Jamaica until the Department of Public Gardens and Plantations was founded. It began by appointing a travelling Inspector. But his visits were not appreciated. Cultivated land being assessed higher for taxation than uncultivated, his motives were suspect. Not until the Jamaica Agricultural Society was established by Sir Henry Blake was the problem of improving the small holders' cultural methods really taken in hand; and the Society now has 235 branches and employs twenty-one travelling Agricultural instructors.

The problem of political reform is to synchronize it with the comparatively slow advance of the smaller peasantry, who are still far from politically minded. On the other hand many educated and prosperous West Indians are increasingly conscious of their capacity to govern themselves and resent the continued tutelage of the Colo-

¹ Lord Olivier, *Jamaica, the Blessed Isle*, pp. 271-4; W. M. Macmillan, *Warning from West Indies*, pp. 88-94.

nial Office and its appointment of officials from outside.¹ It was in response to these complaints that Mr. Wood was sent out to report in 1922. He proposed for Jamaica a revival of the Executive Committee of the Legislative Council and an unofficial majority in that body, as first steps towards responsible government;² but the suggestion was not adopted, and the constitution remains as it was.

¹ See, for example, C. and R. James, *The Case for West Indian Self-government*.

² Cmd. 1679 of 1922, p. 14.

PART III
THE UNITED STATES



CHAPTER I

SLAVERY

THE Americans believed that society was a product of a covenant entered into by people who, being equal in possessing natural and inalienable rights, could mutually agree to submit to rules with the object of securing the enjoyment of their privileges—or, in the words of the preamble to the Massachusetts Declaration of Rights, it was 'a social compact by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good'. The close resemblance of this definition with Rousseau's did not mean that the Americans were his disciples. They were not so self-deprecatory. They were not prepared to admit that they had degenerated from an ideal state of arcadian simplicity. They had no illusions about savages. They could envisage no better natural condition than their own, after they were free from the outworn forms of government and society to which Great Britain obstinately adhered.¹ They were more inclined to the Evangelical point of view. Obviously all the inhabitants of the states were not equally qualified to be parties to the compact. The free Negroes, for example, would be better removed altogether, either to Africa or to some other locality, and the American Colonization Society was formed for the purpose. Their inclusion in the body politic would upset 'the equality between equals' which was its only true basis. Still more were the slaves inadmissible, for 'not being constituent members of American society, they could never pretend to the benefit of such a maxim as that all men are equally free by nature.'² On

¹ Thus Jefferson—'We are destined to be a barrier against the return of ignorance and barbarism. Old Europe will have to lean on our shoulders and hobble along by our side under the monkish trammels of priests and kings as she can.' Quoted by C. Hollis, *The American Heresy*, p. 89.

² M. S. Locke, *Anti-slavery in America, from the introduction of African slaves to the prohibition of the slave-trade, 1619-1808*, p. 2.

the other hand the South would not agree to their being ignored in deciding the division of representation in the Federal House of Representatives between the several states. South Carolina and Georgia indeed favoured their being taken as equal to the whites for this purpose, but eventually the proportion of three-fifths was accepted as a compromise. It became known as the 'federal ratio', and was applied also to the incidence of direct taxation, thus maintaining the connexion between taxation and representation.

Equality amongst the elect, amongst those, that is to say, who were included in the compact, bore fruit in a number of reforms abrogating exclusive privileges. Hereditary titles and offices were forbidden. Entails and primogeniture were abolished. Churches were disestablished. The powers of the popularly elected state legislatures were enlarged at the expense of the executives. The same insistence on equality was not everywhere observed in deciding the qualifications for the franchise, which the constitution left to the states, nor in apportioning the seats in the state legislatures. But here no question of personal status was involved. The vote was not a natural and inalienable right. It was an expedient for choosing the government which would best promote the welfare of all. If manhood suffrage were not the best way, no man's rights were uprooted by its rejection. What was required of a voter was 'evidence of sufficient interest in and attachment to the community',¹ and no better test was conceivable to the planter aristocracy of the 'blacklands' than the possession of property, and preferably real estate. So also in the apportionment of seats. Evidence of attachment to the community was more apparent in the older and more established areas of the 'tidewater' than in the newer frontier settlements. The former influence should, therefore, preponderate. With this object in view, seats in the Southern legislatures were not apportioned according to population, but were allotted geographically. We may give as an example of the result

¹ Virginia Bill of Rights, 1776, Clause 6.

the figures quoted by Jefferson for Virginia, showing the number of delegates from the four areas into which the state was divided compared with the men each sent to the War of Independence.¹

| | Fighting men. | Per cent. | Dele- gates. | Per cent. |
|---|------------------|--------------|-----------------|--------------|
| 1. The Tidewater, up to the falls of the rivers | 19,012 | 38.0 | 72 | 48.0 |
| 2. The Piedmont, between the falls of the rivers and the Blue Ridge Mountains | 18,828 | 37.7 | 46 | 30.6 |
| 3. The Valley, between the Blue Ridge and the Alleghanies | 7,673 | 15.4 | 16 | 10.7 |
| 4. The Trans-Alleghany, between the Alleghanies and the Ohio | 4,458 | 8.9 | 16 | 10.7 |

This unbalanced arrangement was all the more commendable to the slave-owners because of the influx of European immigrants, who were not of American tradition and upbringing, into the Northern States. Many of them penetrated to the Western frontiers of Virginia and North Carolina, and brought with them the independence of the North and of its Western frontier. They were impatient of Southern conservatism, and were intolerant of political privilege. They were opposed to slavery, not because they sympathized with its victims, but because they realized its threat to their own position. They preferred to have nothing to do with Negroes, whether slave or free, and wished to exclude them from their settlements.²

Such was the position when the Virginian constitutional Convention of 1828-9 met. The reformers from the Piedmont, the Valley and the trans-Alleghany attempted to replace the existing apportionment of seats by a distribution based on the white population, leaving out the free Coloured and the 'federal ratio' of three-fifths of the slaves. They appealed to the equality proclaimed in the

¹ T. Jefferson, *Notes on Virginia*, p. 193.

² In 1830 there were no more than 50,000 slaves in Virginia west of the Blue Ridge, as against 397,000 east of it. C. H. Ambler, *Sectionalism in Virginia from 1776-1861*.

Declaration of Rights of 1776 as their justification, and to the 'natural' right of a majority to alter any government which failed to promote the general welfare. They claimed to have proved their 'interest in, and their attachment to, the community' by other means than the possession of land and slaves. The conservatives were not impressed by these arguments. They saw no reason to depart from the existing practice, and they looked with apprehension on the growing influence of the West. In the end they succeeded in riding off on a compromise which, by giving an enlarged representation to the Piedmont, won it over to them, and so defined more precisely the division between Eastern Conservatism and Western Radicalism. In an Assembly of 134 members, the Tidewater was allotted 36 delegates, the Piedmont 42 delegates, the Valley 25 delegates, and the trans-Alleghany 31 delegates. The seats were to be reapportioned every ten years, without, however, altering the geographical division between the four districts. The franchise was extended to leaseholders and to householders, but a large number of citizens remained excluded from it.¹

No sooner had the Convention adjourned than the abolition movement in the North began to act as a consolidating influence on the South. The constitution had left each of the thirteen original states the right to decide whether it should be slave or free. The abolitionists proposed to deprive them of the choice, and to settle the question for them by making slavery illegal regardless of state opinion. No Southerner could contemplate with composure such an invasion of state rights and all were ready to unite in repelling it. At the same time the embers

¹ The voting on the constitution shows clearly the division between East and West:

| | | For | Against |
|-------------------|---|--------|---------|
| Tidewater . | : | 7,673 | 1,091 |
| Piedmont . | : | 12,417 | 1,086 |
| Valley . | : | 3,842 | 2,097 |
| Trans-Alleghany . | : | 2,123 | 11,289 |

F. L. Green, *Constitutional Development in the South Atlantic States, 1776-1860*, p. 224.

of race prejudice were fanned by the conviction that emancipation, if it came, would be followed by the grant of full civil rights to all Negroes.¹ Whigs and democrats, therefore, vied with each other in repudiating W. L. Garrison and all his works.

The influence of these fears in uniting the South may be illustrated by the experience of J. G. Birney, who was Agent of the Colonization Society in the South-West. In 1833 he came to live in Kentucky, one of the 'border states'. He had already been in correspondence with a number of slave owners in it, who had agreed to support gradual abolition. He now found that only nine were willing to listen to his advances. The pro-slavery forces had been organized into secret societies representing both political parties and pledged to support the constitutional rights of the slave states. Freedom of discussion on slavery was no longer tolerated, and it was being proclaimed by all as justified by the Bible and as essential to the welfare of the state. In 1827 there had been 106 anti-slavery societies in the slave states, with a membership of 5,150. By 1840 all had disappeared. Even opinion in the trans-Alleghany in Virginia began in the 'thirties' to veer round towards the Tidewater point of view.²

But the South could not be satisfied with merely defending the position as it was after the Union. The indirect recognition of slavery, and the guarantees of state rights included in the constitution were insufficient safeguards against the growing economic and political preponderance of the North. The prevailing economic forces were against the South. The North enjoyed the benefits of diversified production, whereas slave labour was unsuited to it. The staple products of the South were best served by a policy of free imports, whereas the factories of the North wanted protection, and were supported by the desire of the people of the United States to be as independent

¹ Rhodes, iii. 123.

² W. Birney, *James G. Birney and his Times*, pp. 132-3; V. Dabney, *Liberalism in the South*, p. 71; Ambler, p. 226; A. D. Adams, *The Neglected Period of Anti-slavery in the South*.

as possible of foreign supplies. A still more serious handicap was the impediment of slave labour to white immigration into the South, for it was imperative for the South to keep abreast of the North in the race to occupy the West. Unless it did so, it could not maintain its equality of representation with the North in the Senate. This was its chief security, depending upon every new free state being balanced by a new slave state, each being either north or south of the Mason and Dixon line.¹

As offsets to these manifold disadvantages the South could rely on its great cotton asset, and on popular appeals to preserve and maintain state rights. The spread of cotton culture created what was, in effect, a new South, differing from the old South of Virginia and of South Carolina where social eminence was measured in acreage and slaves, and where the planter aristocracy had accumulated large tobacco and rice plantations and established a tradition of political control. The new cotton states were free from these heritages of the past. Their society of cotton growers was more uniform, and they were spared the political controversies between conservatives and reformers that divided the older southern states. They were, therefore, all the more able to contribute to the ultimate solidarity of the South as soon as the older states had settled their divisions.²

The question of extending the Mason and Dixon line west of the Mississippi arose in 1820, when the South demanded the admission of Missouri as a slave state in order to balance Maine, which had been accepted as a free state. Congress agreed on condition that latitude 36° 30', the southern boundary of Missouri, should be the line of demarcation between freedom and slavery west of the Mississippi, all territory north of it, except Missouri, to be free. The Missouri compromise, as this arrangement

¹ The Mason and Dixon line was the northern boundary of Delaware, the southern boundary of Pennsylvania, and the Ohio river to its confluence with the Mississippi.

² B. B. Kendrick, *Agrarian Discontent in the South*. American Historical Association Report for 1920, pp. 267-8.

was called, served its purpose for a time, but the problem was reborn when Texas was annexed, New Mexico and California were acquired, and the Oregon boundary dispute was settled with Great Britain. Were these immense territories to be slave or free? The obvious solution was to extend the dividing line of latitude 36° 30' westward as far as was necessary; and this expedient was adopted for Texas in the joint resolution of Congress annexing it in 1845. But New Mexico and California had already been made free soil by Mexico. Could any part of them, therefore, even though south of the dividing line, be handed over to slavery? Advocates of freedom declared that they must remain free, and added to the bills appropriating money for their acquisition the Wilmot proviso¹ which forbade slavery anywhere within them. The Senate, however, struck the proviso out, and the bills passed without it.

The South retorted to this attack by propounding a constitutional doctrine designed to limit the authority of the Federal Government over new territories and to expand the area of state rights. The territories, so the theory declared, being the common property of all the states, any citizen was at liberty to emigrate to them with his property, including his slaves, which the Federal Government was bound under the constitution to protect. Therefore the question whether the territories should be slave or free was not for the Federal Government to decide, but for the emigrants themselves, who had the same rights as the people of a state, and could exercise a 'squatter sovereignty'. But the two theories that slaves could be imported at the will of their owners into any territory, and that the settlers in the territory could decide whether it should be slave or free, were in effect contradictory, for what would be the position of the slave-owners if the settlers decided to prohibit slavery?

In the meantime the rapid opening up of the West continued to force the issue on the attention of the country. The discovery of gold in California in 1848 so greatly increased its population that the establishment of effective

¹ So called after the name of its introducer.

governments there and in New Mexico became imperative. Were they to be slave or free? The Standing Committee of the House of Representatives on Territories proposed that both should be free in accordance with the Wilmot proviso. Whereupon the Southern senators and congressmen met under the leadership of Calhoun, the South Carolina champion of state rights, and adopted an address to their constituents denying that Congress had any authority over slavery, complaining of the constant agitation of the question in the North, and declaring that, if it continued, it would end in the subjection of white to black in the South. And so in 1850 another effort was made to save the situation by a compromise. California, which had already declared against slavery, was admitted into the Union as a free state; New Mexico and Utah were given territorial governments without the Wilmot proviso—a safe concession by the opponents of slavery, for both were physically unsuited to slave labour; and a more effective law was passed covering the return of fugitive slaves by the free states.

This second attempt to solve the problem by compromise coincided with the second constitutional Convention in Virginia. The circumstances were more favourable to its success than in 1828, because, although the social and economic consequences of slavery were as prominent as before, they were now submerged in a unity induced by the growing sectional division between North and South. The liberals of Virginia were more ready to accept the leadership of the conservatives on the Negro question, and the conservatives felt more reassured that political reform would not embarrass them. Property qualifications were no longer a necessary bulwark of the pro-slavery position. They had already been abolished in Maryland in 1837, and in Georgia in 1839. All the new cotton states established since the beginning of the century had omitted them from their constitutions, and had adopted white manhood suffrage and equality of representation without disastrous results. Consequently white manhood suffrage was written into the constitution of

Virginia in 1851, and the example was followed by North Carolina in 1857. South Carolina was too preoccupied with state rights to pay attention to political reform. But the omission did not endanger the unity of the South.

The old South, having thus put aside its domestic quarrels, and being supported by the new South, once again took the offensive by tearing up the compromises of 1820 and 1850, and passing an Act through Congress in 1854 creating two new territories, Nebraska and Kansas, both north of latitude 36° 30', on the squatter sovereignty basis. At once the free states and the slave states rushed settlers into Kansas to take part in deciding whether it should be slave or free, and the more numerous forces of freedom won. The defeat brought home to the slave-owners once again their weakness in competing with the multiplying population of the North. But it also reminded them that they were immune from the handicap of northern numerical preponderance in asserting their constitutional claim to move their slaves into any territory. They, therefore, took the Dred Scott case before the United States Supreme Court. It gave them what they asked on the point by ruling that Congress had no power to forbid citizens taking their slaves into a territory, and that each state for itself could alone legislate on the subject. And so, when the Confederate Government was formed after secession, its Vice-President proclaimed that its 'cornerstone' was the great truth that the Negro was not equal to the white man, that slavery and subordination to the superior race was his natural and moral condition, and that the new confederation was the first government in the history of the world to be based on this 'great physical, philosophic and moral truth'.¹

Nevertheless, none of these supports of the Southern cause sufficed to save it from defeat. The transformation of state rights into squatter sovereignty, and particularly the method of its application in Kansas, were the immediate causes of the formation of the Republican party which organized the defeat of the South in the Civil War.

¹ F. Moore, *The Rebellion Record*, i. 45. Stephens's 'cornerstone' speech.

Nor did the South reap much benefit from the Dred Scott decision. The new Republican party refused to be bound by it, and, while disclaiming any intention to interfere with slavery where it was already established, declared emphatically against its extension to new territory on any terms. Nor was the policy of keeping the Negro in subjection a source of strength. The white populations of the older slave states were too diverse for each individual to be, as one writer expressed it, 'in legitimate relation to the slaves'. The equality between equals, on which the South relied to differentiate white from coloured, could work only on the assumption that the population consisted of none but white slave-owners and black slaves, as it did more or less in the new cotton states. Where this was not so—where the whites were not all of one class in relation to the slaves, the equality was imaginary.¹ The subjection of the Negroes in slavery meant the hegemony of the slave-owning interest, and the submission of the non-slave-owning whites to it also. In this chapter we have traced the resultant political antagonisms in Virginia. The same contentions arose in the Carolinas and in Georgia. They were overcome through the rapid spread of cotton culture, the growth of sectional feeling in the South against the North, and the force of colour prejudice. The slave-owning interest was able to make political concessions, and yet at the same time maintain its paramountcy.

But the same division reappeared after the Civil War on an economic and financial basis; with the former slaves now playing a direct part through the franchise which was given them during the Congress reconstruction of the South. These matters are the subject of the next chapter.

¹ F. Moore, *The Rebellion Record*, i. 357-65. Letter written by L. W. Spratt.

CHAPTER II

EMANCIPATION

AFTER the Civil War, the defeated Confederate states could be regarded either as having lost all their constitutional rights, leaving the Congress of the Federated states to restore them on such terms as it saw fit; or as still endowed with their pre-war rights, although their inhabitants were liable to be punished for having rebelled. If the former theory were adopted, Congress would be able to impose Negro suffrage on them as one of the conditions of restoring their governments; if the latter, they would be left to decide it for themselves. Abraham Lincoln, and his successor Andrew Johnson, initiated reconstruction on the latter assumption, and began re-establishing state governments on condition that they ratified the thirteenth amendment of the constitution abolishing slavery, and adhered to certain other conditions.

The state governments were at once confronted with the problem of the emancipated Negroes. While they were slaves they had had no part in the social compact and there was no need to consider how they could be fitted into the white man's civilization, however much their condition of slavery may have influenced it. The Negro problem in the United States had been confined to the half million coloured freemen, who were scattered in small minorities in the Southern and in a lesser degree in the Northern states. Now, in the South the free Coloured were suddenly multiplied more than sevenfold by the emancipation of the slaves. Some transitional arrangement was obviously required to qualify them to make proper use of their freedom. Their natural inability to adapt themselves to it at once, and the idleness and vagrancy in which many seemed to delight, confirmed the Southerner's belief that they were incapable of sharing the privileges of citizenship.

As a remedy for this situation a series of acts were passed which became known as the 'Black Codes', and which in most states were not unreasonable in the circumstances. But the acts passed by South Carolina and Mississippi aroused the anger of the North because they seemed to be deliberately intended to treat the new freedmen, not only as a distinct class in the population—a policy which need not necessarily involve injustice and inequality—but also to discriminate against them, and so to deny or impede their access to full citizenship, while at the same time binding them to their former masters. South Carolina forbade coloured persons to follow any trade or occupation, except husbandry or service under contract, without a licence which was good for only one year. In Mississippi they were forbidden to rent or lease land, except in towns controlled by a corporation, but nevertheless were required to have 'a lawful home and employment with written evidence thereof'. South Carolina dealt with coloured labour contracts, especially those covering farm and domestic service, in the most meticulous detail. Its coloured apprenticeship law was equally elaborate, while that of Mississippi contained the particularly suspect clause that all Negroes and Mulattoes, under the age of eighteen, whose parents were unable or unwilling to support them, should be bound, preferably to their former masters. Both states gave very wide definitions to the term vagrancy, and made labour the penalty for the offence.¹ No time limit being mentioned, the laws could not be defended as necessary to a period of transition between slavery and freedom. They were apparently meant to be permanent.

When, therefore, Congress met in December 1865, two years after Lincoln's proclamation offered to the rebellious states the terms we have alluded to, opinion was strong that more drastic action was necessary against the South and in favour of the new freedmen. But the authority of the Federal Government under the constitution proved insufficient for the task. It could ensure the

¹ G. T. Stephenson, *Race Distinctions in American Law*.

freedom of the slaves by enforcing the thirteenth amendment which invalidated the state slave laws. But it could not penalize whites who refused to treat the freedmen as equals, nor could it compel the state governments to do so. It attempted to enfranchise the Negroes indirectly by a provision of the fourteenth amendment, which forbade the denial of civic rights to them and which purported to reduce the representation in Congress of any state which excluded them from voting. But all the Southern states except Tennessee rejected the amendment. Thereupon Congress decided that Negro suffrage must be imposed on them by force.

The requirement that a voter should give some evidence of interest in or attachment to the community was no longer considered necessary, at any rate by the radicals who were leaders of the reconstruction. They maintained that every man had an inherent right to the franchise, and that to deny it to the Negro would be a discrimination and an offence against the equality proclaimed in the Declaration of Independence. Nevertheless the matter required careful handling. Apart from the Virginia Reconstruction Convention of 1867 refusing to admit the inherent right to the vote,¹ several Northern states would not agree to Negro enfranchisement on any terms. The reform, therefore, could not at once be carried through by a constitutional amendment, which would be applicable to the North as well as to the South, but had at first to be applied specifically to the South. Even so it caused a revulsion of feeling in the North, and in 1867 four states,² which had hitherto been Republican, went over to the Democrats. The Republicans, with this warning before them, were content to declare, in their platform for the Presidential election of 1868, that the guarantee of Congress of equal suffrage to all loyal men (i.e. Negroes and Southern whites who supported the Republican party) in the South was demanded by every consideration of public safety, of gratitude and of justice,

¹ R. L. Morton, *The Negro in Virginia Politics, 1865-1902*.

² New York, Connecticut, Pennsylvania and California.

and must be maintained; while the question of suffrage in all the loyal (i.e Northern) states properly belonged to the people of the state.¹

Having thus created for themselves a strong support in the South dependent upon the Negroes' vote, and having reassured their supporters in the North that Negro suffrage in their states would be left for them to decide, the Republicans easily secured the return of their candidate, General Grant. They then proceeded with the ratification of the fourteenth amendment. Finally, jettisoning the assurance they had given to the North, they put through the fifteenth amendment, which prohibited any denial of the franchise on account of race, colour or previous condition of servitude. Its acceptance brought reconstruction, in the opinion of its authors, to a triumphant close at the end of March 1870.

It would be impossible to imagine a greater outrage of Southern sentiment. By disfranchising whites who had been in rebellion and enfranchising their former slaves, the Northern radicals turned Southern society upside down. A government founded on such a cornerstone could endure only if supported by adequate force, and as soon as the Federal troops were withdrawn the former slave states set to work to undermine it. The fifteenth amendment forbade them to discriminate against Negroes in settling the qualifications for the suffrage, or to employ any means of disfranchising them that was not equally applicable to whites. They were, therefore, driven to the expedient of making polling a difficult and inconvenient process, which the Negroes would be less competent to tackle than most whites. Another plan, depending on the inability of Negroes to preserve papers, required the production of a poll-tax receipt, or of a registration certificate, as a preliminary to voting.

Effective as these methods were in reducing the number of Negroes who polled, they left them on the register as potential political instruments, if the whites cared to use them for the purpose. The temptation to do so was irre-

¹ S. S. Forman, *A History of the American People*, p. 526.

sistible whenever white party divisions left them holding the balance of power; and the whites were no more united during the last three decades of the nineteenth century than during the first three.

The South emerged from the Civil War and reconstruction very different from what it had been before. Its plantations were without labour, its society was revolutionized, and the 'cornerstone' on which its polity had been built was crumbled into dust. Its one great asset was still its capacity to produce cotton. Its power of recovery largely depended upon this, and upon the price which the product would fetch. But the growers no longer enjoyed the same dominance in state politics. They found themselves superseded by the financial and commercial interests recruited largely from the North, who advanced the capital to repair the damage of the war and to restore agricultural production. The South also began to develop urban and industrial communities, and city real estate became more saleable than cotton land. Social prestige no longer depended upon owning land, but on possessing a merchant house, a factory or a bank. The son of a planter who had owned two thousand acres and a hundred slaves found himself rated below the managers of these new city businesses; and even the clerks employed in them looked down upon him. His financial problems also hung round his neck like millstones, and made him as hostile to his creditors in the urban centres as the western pioneers had been to the possessors of political privileges in the Tidewater earlier in the century.

The labour problem was equally troublesome. The employment of the emancipated Negroes as wage-earners not being successful, the plan of settling them as crop-sharing tenants was adopted. It suited them, but it meant a loss of control by the landowners; and in order to secure their interests more effectively, the Southern state legislatures passed 'lien laws' which in the end were the undoing of those whom they were designed to protect. They gave the farmers a mortgage over all the actual and potential products of their tenants until the end of each

year, when accounts were settled. But the farmers were still faced with the difficulty that, having no capital with which to finance their tenants, they were obliged to borrow at high rates from the new merchants and financiers in the towns, who, in turn, were under obligations to banks in New York and other centres. Consequently the farmers found themselves subjected to the same 'ironclad' mortgage of the lien laws as they had imposed on their tenants.¹

This particular situation was peculiar to the South, and was superimposed on the grievances which were at the same time common to all farmers throughout the Union. After the Civil War the United States entered upon an era of unprecedented expansion, which was marked by the usual swing and counterswing of boom and collapse. The depression of 1873 followed a too rapid opening up of new farm land, which had been encouraged by the homestead law, the increase of population, the improvements in agricultural machinery and the speculative building of railways by overcapitalized companies. The recovery of the 'roaring eighties', in which the former boom symptoms were multiplied, was not of much benefit to the farmer, and was, moreover, followed by the 'heart-breaking nineties'. The farmers, especially those in the South who were under the harrow of the ironclad mortgage, were hit above all other classes by these economic storms, and they began to organize for their own protection. The 'Granger' movement, the Greenback party, the Southern Farmers Alliance and finally the Peoples' Party, as they successively emerged in Virginia, the Carolinas and Georgia, were reminiscent of the pre-war controversy over the franchise, in so far as they were protests of the West against the East. But the issues were now economic and industrial, and not the political hegemony of the Tidewater.

The situation was also different in that the Negro vote

¹ B. B. Kendrick, *Agrarian Discontent in the South, 1880-90*; *American Historical Association Report for 1920*, pp. 267-72; A. M. Arnett, *The Populist Movement in Georgia*, pp. 20, 53.

had now to be reckoned with. It played a decisive part, for example, in the 'Readjuster' controversy in Virginia. The problem of funding the state debt, incurred before the disastrous losses of the war, was well calculated to arouse the animosity of the farmers against the creditors. Was the interest to be a first charge on the state's revenues, or was it to be secondary to the cost of public services, of education and of charitable institutions? The Readjusters supported the latter contentions, the conservative Funders maintained the former. They even favoured funding the thirteen million dollars interest accumulated during the war, which increased the total to forty-eight millions. The state elections of 1879 were fought on the issue. Neither side at first bid for the support of the Negroes, but eventually the Readjusters, under the leadership of General Mahone, declared that they would welcome it. Whereupon the Funders retaliated by hiring Negro speakers, establishing Negro clubs, and putting up Republican candidates to split the Negro vote. But these expedients failed, and the Readjusters, with the support of the Negroes, secured majorities in both houses, eleven Negroes being returned in the lower house and two in the Senate. Their triumph was modified by the fact that the Governor was an uncompromising Funder who vetoed the Readjusting legislation. Hence, until they had won the Governorship in the election of 1881, they could not put their theories into practice. For this election ample funds were available to pay the poll-taxes of Negroes in order to qualify them to vote, and in due course a Readjuster became Governor. A law, which in effect repudiated the state debt, was then passed, and the provision making the payment of poll-tax a necessary prerequisite of voting was repealed.¹

Mahone's reliance on the Negro and Republican votes led him to adopt the policy of handing over to Negro control the local government of places where Negroes were in a majority. By doing so he revived the worst memories of the reconstruction period, and brought about

¹ It was submitted to a referendum and carried by a large majority.

his own downfall. The township of Danville was the most conspicuous example. Its population in 1880 was 4,934 coloured and 3,129 whites. The latter paid \$38,000 of the total taxes of \$40,000. In 1882 Mahone organized its local government in such a way that seven out of twelve councillors, all four justices of the peace, four out of nine policemen, the health officer, the market officials, and twenty out of twenty-four renters of market stalls were Negroes; with a 'carpetbagger' as mayor. The riot that followed was the signal of Mahone's doom. His opponents gained a complete victory in the election of 1883; and, having accepted his settlement of the debt question, they were able to appeal for white solidarity in order to prevent the Negroes again holding the balance of power.¹

The agrarian revolt in Georgia began in the northern mountain districts, where the Negro population was less than 20 per cent., and where the whites were mostly small farmers. They found a leader in Dr. Felton and an organizer in his wife, whose power of vivid expression has been preserved in her biography of her husband. The epithets, 'full, fat and saucy', which she applies to the post-reconstruction rulers of Georgia, a triumvirate composed of a plantation-owner and two promoters of railway and industrial enterprises, reflect the feelings of the farmers towards them. They were also challenged in 1880 by Tom Watson, a young man who thereby sprang into eminence, and who, two years later, contested McDuffy county in the Piedmont for a seat in the lower house of the state legislature and won it. Between fifty and sixty per cent. of his constituents were Negroes, and he secured votes from them by promising to support free schools and the reform of the system of leasing convict labour. From these preliminary victories the Peoples' Party went forward to gain complete control over the state in 1890.²

¹ C. C. Pearson, *The Readjuster Movement in Virginia*.

² Arnett, pp. 27-31, 34-6; W. H. Felton, *My Memoirs of Georgia Politics*, p. 10; P. Lewinson, *Race, Class and Party*, p. 71; W. W. Brewton, *The Life of Thomas E. Watson*, p. 157.

In the same year the party won an equally signal victory in South Carolina, but without the assistance of the Negro vote, which had already 'dropped out of serious consideration' as a political force. Benjamin Tillman, the radical leader, was elected Governor. Being determined that the experiences of Danville and other places in Virginia should not be repeated in his state, he paid uncompromising homage to white supremacy in his inaugural address:

"The whites have absolute control of the government, and we intend at all hazards to retain it. The intelligent exercise of the right of suffrage is as yet beyond the capacity of the vast majority of the coloured men. We deny, without regard to colour, that all men are created equal; it is not true now and was not true when Jefferson wrote it."

He proceeded to put the faith into practice by introducing bills requiring the separation of white and coloured in railway carriages, redistributing the Negro vote so that no coloured man could possibly be returned, and demanding a convention to amend the constitution so as to prevent Negroes being registered as voters in future. None of these were passed. Public opinion had not yet got so far. But the main issue of the elections in 1894 was the holding of a constitutional convention to eliminate the Negro vote. Opponents declared that it could not be repealed without at the same time excluding the poor whites; and the convention was carried by only 31,402, to 29,523. The amendments of the constitution that it passed are described later on.¹

In the meantime the use of Negro voters as pawns in white politics continued in Georgia and in North Carolina. The result of the Georgia elections in 1892 depended upon them, and no scruple was shown by the Democratic party in using them to ensure its victory. They were polled in gangs by their white employers. They were entertained the night before, and escorted to the poll lest they should be corrupted on the way. In some cities it

¹ F. B. Simkins, *The Tillman Movement in South Carolina*.

is said that bands of them were taken from one booth to another and their votes recorded under different names. Some were even brought in from South Carolina. The result was a sweeping victory for the Democrats. In the two following elections the same methods were repeated on a larger scale, the Peoples' Party regaining some of the ground they had lost in 1892, but losing it again in 1896.¹ In North Carolina, on the other hand, the Peoples' Party, with the help of the Republican and Negro vote, defeated the Democrats in 1894 and 1896. They then followed Mahone's example, and after decentralizing local government gave the Negroes control over the fifteen counties in which they had a majority. The misgovernment and corruption that followed, and disturbances in Wilmington, where three-fifths of the population were coloured, led to the Democrats once more regaining complete control in 1900.

The year 1890 was the highwater mark of the fortunes of the Peoples' Party. Thereafter they declined, not because the party was unpopular, but because the Democrats, whose conservatism it had attacked, absorbed it. The fusion was encouraged by the improvement in the economic situation that began in the latter half of the 'nineties'; and by the realization that divisions in the white ranks might lead to a return of Republican dominance with the Negro vote as its instrument. The passage of a bill through the Federal House of Representatives in 1890 to put elections in the South once more under Federal officials and troops, although it was thrown out in the Senate, was a reminder of what might happen. And was not the way Negro voters were used as pawns in times of white political stress in itself a sufficient argument in favour of their disfranchisement? They appeared to the whites to be incapable of judging for themselves on the complicated issues of the day. They voted as their Republican leaders or their bosses advised them. And when, as in Virginia under Mahone, and in North Caro-

¹ In 1892 it had 14 members, in 1894, 46, and in 1896, 31. Arnett, pp. 155, 184, 216.

lina in 1896, they were given some responsibility, the results recalled the misgovernment of the reconstruction period. Only by eliminating them entirely from white politics, so it was argued, could the disadvantages arising from their inclusion, and the race prejudice which it engendered, be overcome.¹ The moral to be drawn from the rise of the Peoples' Party was that, so long as the Negro vote was a potential factor in elections, it would hold the balance if the whites were divided. If, therefore, the corruption and malpractices which had marred the elections of the eighties and nineties were to be avoided in the future, either the whites would have to maintain a unity unhealthy to democratic institutions, or the Negroes must be removed from the political arena.

In order to do this it was necessary to devise some qualification for the franchise which, while preventing Negroes being registered, would not ostensibly discriminate between them and the whites. A plan adopted in Virginia in 1874 of making a conviction for petty larceny (an offence to which Negroes were peculiarly addicted) a reason for disqualification, was an example. Mississippi, however, was the real initiator of the new policy. Its constitution of 1890 included a variety of alternative qualifications which could be used as required. If, for example, a request for the production of a poll-tax receipt failed to disqualify a Negro, the property qualification, which was revived for the purpose, might be effective. If this failed the Negro applicant might be subjected to 'educational' and 'understanding' tests of reading, or reasonably interpreting, any clause of the Federal Constitution to the satisfaction of the registering officer who chose it. South Carolina adopted this plan in 1895. North Carolina followed in 1900, Virginia in 1902, and Georgia in 1908.

'The Primary' can also be used as a method of nullifying the fifteenth amendment. It is an exclusive convention of electors, whose one qualification is their assured support of their party. They are usually but a small

¹ R. L. Morton, *The Negro in Virginia Politics*, p. 96; Lewinson, pp. 90-1.

minority of its membership, and no Federal statute can possibly fetter its freedom to decide in its wisdom who shall be eligible. By this device the Negro can be doubly barred. In the first place he cannot become a member of the Democratic party, and, *a fortiori*, of a Democratic primary. Secondly, his access to Republican primaries is of no value to him, for the candidates they nominate have no chance of election.

The Federal Government was equally unable to assure to the freedmen the enjoyment of full civil equality. On the strength of the fourteenth amendment, which forbade any state to abridge the privileges and immunities of citizens of the United States, the Civil Rights Act of 1875 had been passed. It proclaimed that all citizens without regard to race, colour or previous condition of servitude, were entitled to the full and equal enjoyment of accommodation in inns, public conveyances, theatres and other places of amusement. Not until 1883 was its constitutionality decided. The Supreme Court then ruled that the fourteenth amendment could not authorize Congress to enact a code of municipal law interfering with any man's right to decide what guests he would entertain, whom he would take into a conveyance, or admit to his theatre or concert, or with whom he would consort in other matters of daily intercourse or business. And if an individual acted in these exclusive ways under the sanction of a state statute, the Federal Government was powerless to interfere. The burden of defining and securing the civil rights of the Negroes devolved upon the states; and no southern state imposed any obligation on its white citizens to refrain from making distinctions of colour.¹

¹ G. T. Stephenson, *Race Distinctions in American Law*, pp. 102-11, 120; H. E. Flack, *The Adoption of the Fourteenth Amendment*; F. Johnson, *The Development of State Legislation concerning the Free Negro*, pp. 29-31.

CHAPTER III

THE FREE NEGRO

THE complicated and detailed separation between white and coloured in the United States before the Civil War, depending as much upon custom and public opinion as upon law,¹ was an elaboration of the thesis that Negroes were unsuited to share in the equality on which the Union rested. The 'fundamental law of racial contact', as it appeared to the Southern whites, was that their interest and their instinct of self-preservation should dictate the terms and conditions of racial association, and that friction would be least where their terms were accepted without cavil. The personal relations between slave-owners and their domestic Negroes, which were the one redeeming feature of slavery, were governed by an understanding of this description. The status of the field slaves removed them also from white envy. Only the free Coloured were outside the enclosure; and they were too few to be a menace. Nevertheless their status was defined by colour distinctions, which naturally became still more necessary after emancipation. The Negro's capacity to adapt himself to circumstances which, his detractors asserted, 'a more sensitive people' would have found intolerable, was a valuable asset in a slave. It was less welcome when he became free. Moreover it was accepted as one of the proofs that he was 'different in kind' from the whites and would continue to be so, even if his lack of mental development, to which it was partly attributed, were remedied.²

¹ Separation in schools and in public conveyances was enforced by law. In other places of resort, such as hotels, restaurants and theatres, it was not forbidden by law, but was governed by custom, with many anomalous results. Although it was unlawful to exclude Negroes from serving on juries on account of their colour or race, they were seldom selected. On the other hand their right to testify in court as witnesses was generally undisputed. G. T. Stephenson, *Race Distinctions in American Law*.

² A. H. Stone, *Studies in the American Race Problem*, pp. 222, 234-5; H. W. Odum, *Social and Mental Traits of the Negro*, p. 265.

Neither the alleged inferiority of the Negro nor the difference between him and the white man were of much significance under slavery, for that institution, and not the Negro's qualities, governed his status. For the same reason, before emancipation, artisan trades were undertaken by slaves without elevating them socially above unskilled whites. They still remained in the servile caste irrespective of their skill or training. Nothing but freedom could lift them out of it. Hence in the slave states, where there was no European immigration, Negroes, either slave or free, did most of the skilled as well as the unskilled work.¹ Their hold over the former, although at times exciting white animosity, was not seriously challenged in the South so long as slavery endured. The whites preferred the land and the Western frontier as outlets for their energies. But the rapid industrialization of the cities after the Civil War swept away the old opportunities of the Negro craftsmen, who had been the equivalent in the servile state of the local blacksmiths, cobblers, carpenters and masons of a free country. As these latter became anachronisms, so also did the Negro craftsmen. Their usefulness passed with the slave economy on which it depended.² Their sons were faced with the alternatives of either working on the land or joining the drift to the new towns. They chose the latter, and Negro urban communities began to show notable accessions.³

The contact of white and coloured in the new industrial and urban field did not at first improve their relations, for it brought them into direct competition for work which the whites, far from contemptuously scorning, now insistently demanded. In Chicago, for example, in the

¹ In Charleston, South Carolina, for example, the building trade employed 213 skilled slaves and 41 skilled free Negroes, the clothing trade 103 slaves and 329 free, the food trade 105 slaves and 74 free, and so forth. C. H. Wesley, *Negro Labour in the United States, 1850-1925*, pp. 30-4, 71.

² Booker Washington, *The Future of the American Negro*, pp. 55-6; C. G. Woodson, *The Education of the Negro prior to 1861*, pp. 283-4.

³ F. L. Hoffman, *Race Traits and Tendencies of the American Negro*, ch. i.

eighties, the coloured people lost the monopoly of occupations which had hitherto been theirs. White men now wanted the work, and their more organized and industrialized methods were too much for the easy-going Negro individualist operators. Hence white barbers displaced black; Swedes became janitors, and 'boot blacks' were transformed into 'shoe-polishers' doing business in luxuriously appointed parlours.¹ Competition between the two races was less marked in the South where the colour distinction had been hardened by custom into a kind of caste. White artisans, therefore, could work with black without losing the estimation of their fellow men. Each knew the status of the other, and that it could not be affected by their propinquity. Nevertheless in the South also, so A. H. Stone, that uncompromising exponent of the white case informs us, the people in constantly increasing numbers were coming to the conclusion that they must free themselves from dependence on the Negro, and begin in some degree his final supplanting by the white man.²

At the end of the nineteenth century a movement was started to turn the Negro's attention to his own economic education as a prerequisite to his sharing more fully in American civilization. The movement was to some extent a reaction against the reconstruction period. The adherents of the policy of enfranchising all the Negroes had defended it as the only effective means of preventing all possibility of a return to some form of servile labour in the South. They had also maintained that it was the best method of educating the new freedmen in their civic responsibilities, and that it was essential for their future protection. On this view the political approach to the Negro problem was of more importance than the economic. But the new movement, under the leadership of Booker Washington, took the opposite line that, until the Negroes had established their economic position as

¹ J. Dowd, *The Negro in American Life*, p. 18; B. Schriek, *Alien Americans*, pp. 120-3.

² Stone, pp. 165-6, 198-9.

freedmen, they would be unable to make adequate use of their civil rights, and that the surest way to reach the highest positions was to qualify themselves to fill well the baser occupations. For the present, therefore, the franchise should be a secondary consideration; its importance had been over-emphasized during reconstruction, and it should be settled eventually by a property or educational test cutting off large masses of ignorant voters of both races. Booker Washington believed in the supremacy of economic over racial factors and that, as the Negroes expanded in industrial and business directions, they would divide on political and economic issues in the same way as the whites. For example, Negro and white landowners would see eye to eye on all questions relating to the land. He lamented the passing of the old slave artisans, and urged that others should be trained to take their place, to play a part in the new industrial order and to acquire interests coinciding with those of the white mechanics. He founded Tuskegee College with this end in view. On the other hand, unity of economic interest need not imply social intermingling. The two peoples could be one, as was the human hand, in fulfilling their daily functions, but nevertheless still as separate as the fingers.¹

The idea was welcomed in the South because it deferred the political aspect of the Negro problem on the suggestion of the Negroes themselves, and so reassured the whites that they need not fear a recurrence of Negro political domination, at any rate for some time. It was welcomed also in the North which was becoming impatient of the eternal Negro problem, and by now had large capital investments in the South. Moreover, the plan fell in with the general belief that the legal right of the Negro to vote had been the only serious cause of hostilities by the South, and that once this cause

¹ Booker Washington, *The Future of the American Negro*, pp. 11-12, 69, 73, 153, 155, 233-4; *Up from Slavery*, pp. 219-20. Burghardt du Bois, *The Negro* (Home University Series) states the case in favour of the reconstruction enfranchisement of the Negroes.

was removed racial antagonisms would be automatically assuaged.¹

The new policy naturally attracted the strenuous opposition of all who believed that so long as the Negroes could not vote they would not receive fair treatment from the whites. Burghardt Du Bois became the leading Negro exponent of this conviction. He attacked the theory that the disfranchisement of the Negroes would lead to more careful attention to their moral and economic advancement. It had, on the contrary, stripped them naked to their enemies. Discriminatory laws of all sorts had been passed and their administration became harsher and more unfair. Expenditure on Negro schools had been curtailed, and their education had been discouraged, while lynching and mob rule had not been suppressed. In refusing to defer the demand for the full exercise of the franchise, Du Bois felt he was maintaining the only effective weapon the Negroes had to uphold the cause of justice for all irrespective of colour.² He founded the National Association for the Advancement of the Colored People to enforce and protect their statutory rights.

Sufficient time has elapsed to enable us to test the wisdom of Booker Washington's plan, and to judge whether or not the political segregation of the Negroes has diminished as their economic importance has increased. In order to answer the question we must first reach some conclusion on the economic and cultural advance of the Negroes by applying three tests. The first is the demand for their services. The second is the increase of their wealth. The third is their progress in education.

The following table gives the percentages of male Negroes employed in four principal classes of occupations between the years 1890 and 1930, together with the increases or decreases between these two dates.

¹ Stone, p. 277.

² W. E. Burghardt du Bois and Booker Washington, *The Negro in the South, William Levi Bull Lectures for 1907*, p. 112; Du Bois, *The Souls of Black Folk*, p. 88.

| Occupations | 1890 | 1900 | 1910 | 1920 | 1930 | 1890-1930 |
|---|------|------|------|------|------|-----------|
| Agriculture, Forestry, and Fishing . . . | 59.6 | 53.7 | 55.7 | 45.2 | 37.7 | -21.9 |
| Domestic and Personal Service . . . | 28.7 | 33.0 | 21.6 | 22.1 | 28.6 | -0.1 |
| Manufactures . . . | 6.3 | 6.9 | 12.3 | 18.4 | 18.6 | +12.3 |
| Trade and Transport | 4.4 | 5.2 | 7.2 | 9.4 | 10.5 | +6.1 |

From the above it appears that in 1890, 88.3 per cent. of male Negroes were employed in agricultural and domestic occupations, and 10.7 per cent. in manufactures, trades and transport. These percentages changed but little between 1890 and 1900. But during the succeeding decade a drop of 11.4 per cent. in the domestic and personal class, and a rise of 7.4 per cent. in the manufacturing trade and transport classes had occurred, and also a rise of 2 per cent. in the agriculturalists. Previous to 1910, therefore, industrial labour had diverted workers mainly from the domestic and personal classes. This was no longer true after 1914, for the war so widened the economic and industrial opportunities of the Negroes, particularly in the North, that they were able to find employment in many new directions. The result is reflected in the fall of 10.5 in the percentage of workers employed in agriculture in the 1920 census. The diversion of Negroes from one class of labour to another then stopped, and the 1930 census shows that the percentages of 1920 had changed but little, except that domestic and personal service had gained on agriculture. Looking at the period 1890 to 1930 as a whole, we find that the percentage of Negroes in agriculture and in domestic services declined from 88.3 to 66.3, while the percentage of those employed in industry and transport increased from 10.7 to 29.1.¹

The immensity of the industrial opportunity which the war gave to the Negroes is further shown in the following table of the distribution of Negro labour between personal and domestic services, and factories and transport in seven of the largest northern cities in 1910 and 1930.²

¹ *Census Returns*; L. V. Kennedy, *The Negro Peasant turns Citywards*, p. 72.

² *Ibid.*, p. 75.

| | <i>Domestic and personal service</i> | | | <i>Manufactures and Transport</i> | | |
|--------------|--------------------------------------|------|-------|-----------------------------------|------|-------|
| | 1910 | 1920 | | 1910 | 1920 | |
| New York | 49.0 | 37.4 | -11.6 | 29.3 | 43.0 | +13.7 |
| Philadelphia | 28.8 | 18.5 | -10.3 | 44.3 | 64.6 | +20.3 |
| Chicago | 51.1 | 28.1 | -23.0 | 26.7 | 53.7 | +27.0 |
| Detroit | 33.4 | 14.1 | -19.3 | 25.1 | 77.3 | +52.2 |
| Pittsburgh | 30.4 | 22.2 | -8.2 | 41.2 | 65.3 | +24.1 |
| Cleveland | 32.9 | 15.1 | -17.8 | 33.4 | 73.6 | +40.2 |

The fall in the percentage of those employed in domestic and personal services was not due to fewer Negroes being employed in them,¹ but was caused by the large accession of Negroes to mechanical trades—the accessions to transport being much smaller. Nevertheless, the fact remains that Negro industrial and transport workers are still almost wholly confined to unskilled labour and to positions allied to domestic and personal service. Their limitation to low grade positions, and their failure to rise to higher, is not due to any colour bar, but to their inexperience and lack of training and to the exclusive attitude of white Trade Unions.² The diversion of Negroes from domestic and personal service into industry between 1910 and 1920 consequently did not involve either a radical change in their occupations or a marked advance in their status. On the other hand the migration of farm labour into industry in the following decade was a transference of workers from their former into an entirely different occupation, and into the more progressive and disturbing environment of large cities.

The second test to be applied to the economic advance of the Negroes is their wealth. Figures of its increase are remarkable, but, as with the statistics relating to Negroes in industry and transport, are not so satisfying when analysed. Taking farming first, we may note that while

¹ Dutcher, p. 48.

² Kennedy, pp. 82-4; Dowd, p. 94, estimates the percentage of Negroes in manufacture and transport who are doing unskilled work at 'probably 90'; Dutcher, pp. 14-15.

the number of Negro farmers in 1866 was 20,000, it had risen to about 900,000 in 1935. But four-fifths of all Negro farm operators are tenants and share croppers,¹ and we have already discussed the circumstances in which tenancy arose. It started as an expedient to grow cotton with free labour after the abolition of slavery had destroyed most of the capital invested in cotton culture. The need of new capital bound it to the iron-clad mortgage, and so projected the 'shadow of the plantation' over the free tenant-farmer descendants of the slaves, fostering in them a spirit of irremediable stagnation. One noticeable feature has been the survival of the one-roomed cabin of slavery. Still housed in it as he was when a slave, the freedman and his family saw but little change in his environment. Burghardt Du Bois's description of the former slave plantations in Dougherty County, Georgia, thirty years after emancipation, paints a dreary picture of the moribund living conditions of which it was typical.² The old slave lay-out survived as a gaunt reminder of the past. The 'great house', dilapidated and forlorn, remained the centre of the same old slave hovels, now inhabited by freemen. The one-roomed cabin was still the standard habitation:

'now standing in the shadow of the big house, now staring at the dusty road, now rising dark and sombre amid the green of the cotton fields. It is nearly always old and bare, built of rough boards, and neither plastered nor ceiled. Light and ventilation are supplied by the single door and by the square hole in the wall with its wooden shutter . . . a bed or two, a table, a wooden chest, and a few chairs compose the furniture; while a stray show-bill or a newspaper makes up the decorations for the walls.'

C. S. Johnson found the same conditions still existing in 1930 in Macon County, Alabama, the country in which Tuskegee is situated. Here were 3,349 Negro and 600 white farm operators, the former occupying 145,173 acres, or an average of 43, the latter holding 71,855, or

¹ *Report of the Special Committee on Farm Tenancy*, 1937, p. 28.

² Du Bois, *The Souls of the Black Folk*, pp. 137-9.

an average of 103 acres. The acreage farmed by tenants, mostly for absentee landlords, amounted to 140,753. The cabins of the tenants are arranged in clusters, or on the larger plantations in close-set rows on the edge of the cotton lands. The 'great house' has disappeared, and all the buildings have the worn and sagging aspect of age. Here and there are houses of different design and with weather-boarding. They are the houses of white residents and occasionally of Negro owners. The only evidence of modern progress is a garage which has displaced the village smithy and stables. 'The machine has not entered here yet, for the routine of cotton cultivation and especially of weeding and picking demands a discrimination that can be taught to the dullest peasant, but which no machine has yet mastered.' As a consequence the system has continued to breed its own type of labour in the thousands of Negroes whose lives are bound up in it. Recently, however, the increase in literacy, the return of some of the younger men from Tuskegee or Montgomery, and the greater facility for migration have had some effect. The housing conditions are improving and the one-roomed cabin is disappearing.¹

Turning now to the Negroes in business we find that their importance has grown with their urban and industrial connexions. They are now no longer negligible as consumers as they were before emancipation. Their new purchasing power has facilitated the development of Negro businesses. There has been a growing tendency for Negroes to do business with Negroes, in accordance with the vertical division between white and coloured which is replacing the old horizontal division of slave days. There are now Negroes representing every

¹ C. S. Johnson, *The Shadow of the Plantation*, xx. 10-14, 28. In 1910 the Negro population of the county was about 22,000. In 1920 it was 19,600 owing to the wartime migration to the North. In 1930 it had returned to the 1910 level. See also Dowd, p. 91. The problem of tenancy is not, of course, purely Negro. Two-thirds of the tenants and share croppers in the South are whites. On the other hand, four-fifths of Negro farmers are tenants or share croppers. See *Report of Special Committee on Farm Tenancy*, p. 3.

function of contemporary American society. The coloured community can, therefore, organize itself independently of, and parallel to the white. It can develop a 'group economy'. Its success in doing so has been a more effective demonstration of Negro capacity than has landownership, hampered as that is by farm tenancy, or the invasion of industry, where progress above a certain level is blocked by lack of training and by white exclusiveness. It aims at a self-sufficing society, living and associating together, meeting in the same centres, trusting its own physicians, lawyers and ministers, and so forming a complete community with its own interests and loyalties. Within it, its members may freely develop their faculties and so earn whatever measure of appreciation and respect is their due.¹

This idea had already given birth to Negro churches. As early as 1794 Richard Allen, finding that Negroes were not treated with courtesy in the white churches, founded the African Methodist Episcopal Church, which has since grown into one of the greatest exclusively Negro organizations in America. The Negro Baptist Church followed the example. The movement was not welcomed by all. It was opposed by, for example, Frederick Douglas, a leading Negro before and during reconstruction, who favoured the Coloured being absorbed as quickly as possible in the general body politic.² As it is, however, the Churches have become the centres of the social and spiritual life of the Negroes, and have encouraged them to apply the same policy of self-sufficiency to other interests.

In accordance with this plan, the National Negro Business League insists in phrases reminiscent of its founder, Booker Washington, that the Negroes must prove their capacity to co-operate among themselves before

¹ *Chicago Riot Report*, p. 140; C. S. Johnson, p. 6; Weatherford and Johnson, p. 444; Dutcher, pp. 116-17.

² B. Brawley, *A Social History of the American Negro*, pp. 239-40; C. G. Woodson, *The Education of the Negro prior to 1861*, p. 86. The resemblance of the Allen and Douglas positions to those of Booker Washington and Burghardt Du Bois will be noted.

demanding co-operation from others, and that business is the true test of ability to co-operate. With these objects in view, the League employs national organizers to spread the faith. It has established a National Negro trading week. It maintains an information and exchange bureau. It publishes a monthly bulletin. It conducts a national survey of Negro business.¹

The third test to be applied to the advance of the Negroes is their progress in education. It may be demonstrated by the following figures of the percentage of the Negro population, five to twenty years old, attending school, and of literacy:

| | 1870 | 1880 | 1890 | 1900 | 1910 | 1920 | 1930 |
|---------------------|------|------|------|------|------|------|------|
| School Attendance . | 11.2 | 37.8 | 32.9 | 31.0 | 44.7 | 53.5 | 60.0 |
| Literacy . . | 18.6 | 30.0 | 42.9 | 55.5 | 69.6 | 77.1 | 83.7 |

We may add to these figures the percentage of Negroes who were returned as being of the 'professions' in the censuses of 1890 to 1930:

| 1890 | 1900 | 1910 | 1920 | 1930 |
|------|------|------|------|------|
| 1.0 | 1.2 | 1.3 | 1.7 | 2.5 |

All these figures are less satisfying when examined in detail. For example the professional class in 1928 contained 19,600 preachers, of whom only a small number had any college training. So also of the 1,046 teachers in colleges, only 412 held graduate or professional degrees. Again, while the figures of school attendance are satisfactory enough, the qualifications and salaries of teachers, and the duration of school terms compare unfavourably with the white.²

Nevertheless the Negroes have benefited by the added impetus that has been given in recent years to education in general. Their urbanization³ and their enlarged economic

¹ *Negro Year Book*, 1931-2, p. 133.

² Census Returns; F. McCuiston, *Financing Schools in the South, and School Money in Black and White*; E. R. Embree, *Every Tenth Pupil*; B. Schrieke, *Alien Americans*, chap. vi.

³

| | 1890 | 1900 | 1910 | 1920 | 1930 |
|-------------|------|------|------|------|------|
| Urban . . . | 19.8 | 22.7 | 27.4 | 34.0 | 43.7 |
| Rural . . . | 80.2 | 77.3 | 72.6 | 66.0 | 56.3 |

opportunities have opened to them new educational facilities, while the absence of these, especially in the rural areas, has aroused the sympathy of many whites. As a consequence several movements to improve the quality of Negro education are now in operation, and have already accomplished much. The Jeans fund sends out itinerant supervisors who inspire teachers to awaken in the pupils a sense of pride in their home standards. The General Education Bureau now appoints State Supervisors of Negro schools. In 1914 Julius Rosenwald instituted the fund that bears his name to erect model Negro schools on condition that the cost was shared by Negroes, their white sympathizers and by the State Governments. The movement began in Macon County, where twenty years later 'the shadow of the plantation' was still so visible. It has since spread through the South, and in 1932, 5,357 schools had been built in fifteen states, the fund contributing \$4,364,869, Negroes \$4,725,871, their white friends \$1,211,975 and the States \$13,105,805. Lastly, the John F. Slater Board establishes County Schools to train Negro school teachers.¹

From this brief survey of the present position of the Negroes, we may deduce that their urbanization has been the most significant fact of their history since emancipation. It has had disadvantages. It has multiplied and complicated customary discriminations. It has evoked a new residential segregation which was unknown in rural districts. Hitherto no state had insisted on territorial separatism. White farmers did not object to Negro neighbours, although a Negro who was 'unacceptable' might find obstacles to his becoming a landowner. But in towns, where the coloured population attained a noticeable density, residential segregation was demanded, and, although not established by law, was enforced if necessary by extra-legal sanctions.²

¹ V. Dabney, *Liberalism in the South*, pp. 416 et seq.; Weatherford and Johnson, pp. 361-4.

² Even in towns residential segregation is not necessarily absolute. There may be 'adjusted neighbourhoods' in which both whites and

Nevertheless it is in towns that the Negroes have been able to exercise some of the legal rights that the fifteenth amendment of the constitution was designed to assure to them.¹ Various reasons account for this. In the first place the towns generally contain the white men who have the broadest outlook and have business relations outside and beyond the Mason and Dixon line. So also do the larger towns attract the ablest and best educated Negroes, who find in them wider scope for their talents. Secondly the towns are the centres of welfare associations and inter-racial movements, showing that a substantial minority of whites admit the justice of the Negro's case and are anxious to do what they can to meet it. Again, urban conditions are favourable to the organization of Negro fraternal movements. Here are found the offices of the National Association for the Advancement of the Colored People, and of the Urban League, an institution devoted to social research and conference work. Urban Negro schools are better staffed and better housed than rural schools. The best Negro professional men, Negro business men, real estate agents, bankers and editors, Negro hospitals, theatres, dance-halls and beauty parlours are in the towns—in effect a full epitome of 'group economy'. And the members of it, each in their various callings, have special bonds of interest with whites:

'A wealthy Negro estate operator and his white banker, a Negro bishop and his friends in the City's White Church, a capable Negro High School principal and the white superintendent whom he helped in a School Board election, a tactful old Negro of influence among his people and the liberal white editor whom he used to shave.'

Such relationships make up for the lack of any social intercourse of white and coloured in their respective homes. They are based on an equality which was absent from the often ideal relations between a slave-owner's

Negroes live contentedly, and 'non-adjusted neighbourhoods' in which opposition to Negro residence is unorganized and ineffective. *Chicago Riot Report*, pp. 108-22; Dowd, p. 473; Schrieke, p. 143.

¹ Lewinson, p. 103.

family and his domestic slaves. And the result of these more favourable circumstances has been the emergence of a Negro leadership which is often successful in securing reforms.

The density of urban populations is another factor favourable to the Negro's greater activity. He is lost in the crowd, which is too large to be concerned with the actions of individuals. He enjoys an anonymity in exercising such rights as he can, that is absent in small rural communities where everybody knows what everybody else is doing. If he registers as a voter, it is not at once the common knowledge of all. White newspapers and candidates may canvass his vote in local matters without attracting comment. Moreover, the obstacles that hamper Negroes voting in State and Federal elections are not so operative in local affairs. Many Municipal elections are not controlled by primaries, which also do not interfere in the election of the officers of towns governed under City-Manager Charters, or, with exceptions, in those governed by Commissioners.¹

Another opening for the Negro voter is when a referendum is taken on some local proposal, such as a bond issue, or a city extension, or an alteration of tax rates—issues that are as non-partisan as are local town elections which are not under primaries. No question of white supremacy is at stake. The Negro and the white may vote according to their economic interests. The spectacle of a Negro landowner being canvassed for a bond issue, and the unquestioning assumption that he would vote the same way as the white proprietors, was an experience that encouraged Booker Washington to start his movement.²

The presidential election every four years provides the Negroes in the South with another opportunity of recording votes. They can safely be left to do so, for their

¹ In 1930, the number of towns in the south under City-Manager Charters was 115. In 1927 there were 32 cities of over 30,000 inhabitants governed by Commissioners.

² Booker Washington, *The Future of the Negro*, pp. 233-4.

Republicanism counts as nothing against the white support of the Democratic nominee.

We may conclude then, that of these three instances in which Negroes have of recent years voted in the South, only the first two, non-partisan municipal elections and referenda, are of any significance. And even in these the coloured vote is always small. Its opportunities in presidential elections have been nullified by its unchanging adherence to the Republican party, which in the South is snowed under by the concentrated white Democratic vote. The same cause has hampered the indirect political influence of Negroes, by rendering their canvass unnecessary, and by reducing their influence on party programmes.¹ It has also been an embarrassment to the Republican party managers, for it makes it harder to enrol white recruits in the South.²

The 'lilywhite' movement originated in a desire to overcome this last difficulty. Its object was to build up a Republican organization in the South which would be 'white' and independent of the Negroes. The circumstances appeared to be favourable to the attempt. Many Southerners were conscious of the evils of the one-party system, and the large number of Northerners who had migrated into the South since the Civil War were likely to be republican in their sympathies. The South also had changed in its outlook. The greater diversification of its agriculture and its numerous industrial interests had brought it more into line economically with the North. On the tariff question, for example, it was increasingly inclined to protection. If therefore the Negro commitment of the Republican party could be thrust into the background a breach might be made in white Democratic solidarity. The presidential election of 1928 afforded an admirable opportunity of testing the force of this reasoning.

Alfred E. Smith, the Democratic nominee, was a Roman

¹ The Presidential Election of 1936 was an exception. The Democratic party energetically canvassed the Negro vote in the large northern cities and it went overwhelmingly for President Roosevelt.

² Lewinson, chap. vii; Dowd, chap. vi.

Catholic, a 'wet' and a member of Tammany Hall—a combination of qualifications highly unpalatable to 'dry', fundamentalist Southerners. And yet, although Mr. Hoover carried seven Southern states,¹ 'lilywhitism' petered out as soon as the objectionable candidate had been defeated. It appealed only to an urban minority. It met with no permanent response from the great rural majority, in whom it only reawakened fears of a Negro balance of power if the white vote were split.² Nor was it well received by Republican Negroes in the North, who objected to their Southern compatriots being shouldered out of the party for the satisfaction of Democrats. It also made the racial question an issue of the campaign, and so aroused the resentment of all the Negro leaders. It drew from them a dignified protest stating the Negro case in the form of an 'Appeal to America'.³

'We are not', they declared, 'demanding or even discussing purely social intermingling. We have not the slightest desire for intermarriage between the races. We frankly recognize that the aftermath of slavery must involve long years of poverty, crime and contempt; for all of this that the past has brought and the present gives we have paid in good temper, quiet work and unfaltering faith. But we do solemnly affirm that in a civilized land and in a Christian culture, and among increasingly intelligent people, somewhere and some time limits must be put to race disparagement and segregation, and to campaigns of racial calumny which seek to set twelve million human beings outside the pale of ordinary humanity.'

The requirements of political honesty and intelligence, they affirmed, could not be put too high to gain their consent, but they must be applied regardless of other considerations which had nothing to do with them.

Have then the political prospects of the Negroes improved with their economic advance? Judging by the materials collected in this chapter, it would be more correct to ask: will the Negroes be given full opportunities to develop their faculties where, in a democracy based on

¹ West Virginia, Virginia, Kentucky, Tennessee, North Carolina, Florida and Texas.

² Lewinson, chap. viii.

³ *Negro Year Book*, 1931-2, p. 89.

manhood suffrage, they are denied their fair share of political authority? The answer depends upon the practicability of the 'group economy' idea; or, to ask yet a third question—can there be a separate Negro culture, in the widest sense of the term, within the United States, distinct from the white culture and equally comprehensive? It is plain that there cannot be. The conditions of white predominance make any such dualism impossible. The Negroes cannot evolve independently. They must submit to white laws, to white business methods and to the framework of white society. They must continue to be mainly dependent upon the white demand for their labour. Only 12,000 of them, in addition to the proprietors, are employed by the 25,000 Negro businesses at present in existence.¹ Nor would the whites willingly dispense with their services. Their performance of certain classes of work has behind it all the force of tradition and of custom, and their opportunities of recent years have widened. They have now a place in Northern industry which they had not before. They occupy a defined area of usefulness which is secured to them by the vertical division between them and the whites. But it also limits their prospects, for its boundaries are defined by the whites who will not tolerate that Negroes should be promoted to positions over them. Relations between the two races are best where the whites are free from any sense of possible inferiority—that is to say between the higher group of white people and the Negro masses. They have been most strained between the higher groups of Negroes and the white people as a whole. So wrote A. H. Stone in 1908. It is suggestive to compare this dictum with the conclusion reached on the same point by Weatherford and Johnson writing in 1934:²

'Perhaps one would sum up the situation by saying that the great masses of the American White people have not changed their attitudes from the attitudes held during slavery, but the leaders of the whites have undoubtedly adopted much more liberal attitudes;

¹ Weatherford and Johnson, p. 547; A. L. Harris, *The Negro as Capitalist* treats the problem from the point of view of banking.

² Stone, p. 292; Weatherford and Johnson, p. 517.

and since these leaders ultimately set patterns of thought, the social prejudice will gradually disappear and the relations between the races will slowly but surely become more friendly.'

This may be a correct prophecy. The situation has improved since 1908. But it is not yet possible to envisage a time when ethical standards or personal achievements will admit accomplished coloured individuals to equal privileges with the whites. When Negro leaders, while still remaining in the coloured group, can co-operate with the whites in governing the country, then only will the political problem be solved; and until it is solved the economic problem will remain a cause of ill feeling. The Government must always be supreme, and, so long as it represents only the white interests, the whites will be tempted to take advantage of their position, and their actions will be suspect to the Coloured. Moreover, they cannot repress the Negroes without undermining their own position. The shadow of the plantation still hovers over the poor whites as well as over the Negro tenants. In spite of their overwhelming predominance white voters are still haunted by the spectre of a Negro balance of power. The remedy of Negro disfranchisement by guile lowers the prestige of all voters, and corrupts governments.¹ Not thus can democracy survive, nor two peoples unite to serve one country.

¹ See E. J. Murphy, *The Basis of Ascendancy*.

CHAPTER IV

LIBERIA

I

THE governing motive of the American Colonization Society differed from that of the Sierra Leone Company. England had not a large and growing coloured population. Its interest in the matter was therefore more objective. On the other hand every slave who was emancipated in the United States added to the gravity of the Negro problem. 'If we must manumit our slaves,' exclaimed a member of the North Carolina Constitutional Convention, 'what country shall we send them to? It is impossible for us to be happy if, after manumission, they are to stay among us.' Jefferson expressed a similar opinion in his correspondence with Monroe, who was at that time Governor of Virginia. Monroe had forwarded a resolution of the General Assembly proposing that free Negroes and Mulattoes should be either segregated or emigrated. Jefferson in his reply, after picturing the United States as covering the whole North, and perhaps even South America 'with a people speaking the same language, governed in similar forms and by similar laws', added 'nor can we contemplate blot or mixture on that surface'. He then reviewed the places to which the Coloured might be sent. The territory north of the Ohio River, which was open to white settlement, would be too expensive for the Virginian Government to buy, while further to the north the country was Indian and British—to the west and south it was Spanish. The West Indies offered better prospects than South America, and San Domingo, where the Blacks had already organized a government, was the most promising of all. But three years later he was obliged to eliminate it as being too unsettled. On the other hand as the Sierra Leone Company had now taken steps to hand over its colony to the British Government, an American settlement might be

incorporated with it. The idea was not new. In 1789 Samuel Hopkins of Newport, Rhode Island, had approached Granville Sharp on the subject. It was revived again in a resolution passed by the Assembly of Virginia in 1816 in favour of obtaining a territory on the coast of Africa, or on the North Pacific coast of America, or at some other place not within the territory of the United States, 'to serve as an asylum for such persons of colour as are now free, and for those who may hereafter be emancipated'. Similar resolutions were passed by Maryland, Tennessee, New Jersey and Connecticut, and were followed by others in the Senate. The capacity of Africa to receive migrants was 'almost unlimited', and there were in the United States 250,000 free Coloured 'whose removal would be a blessing to themselves and a release to us'. The expense of emigration was small, and, when the vessels could return with freight grown by the colonists, they would amount to no more than the cost of subsistence during the voyage and for a few months afterwards 'in the cheapest country upon earth'.¹

The American Colonization Society was formed in 1816 to put the plan into operation. Drawing support from both the free and the slave states it was careful to preserve a strictly neutral attitude on emancipation. It carefully kept aloof from Garrison, and it was attacked by '*The Liberator*' and by the English Evangelicals for its complacency. But its attitude towards slavery, though opportunist, was understandable. It was defined by the chairman at the first annual meeting. Replying to a question why the people of the United States of America had so far enjoyed unexampled happiness and prosperity, he declared:

'It is because, whatever may be the cancerous and alarming evils which, by its early masters, have been entailed on the finest

¹ G. Livermore, *An Historical Research Respecting the Opinions of the Founders of the Republic on Negroes*, p. 81; *U.S.A. Documents of Congress Miscellaneous*, 1834, i. 464-7; the *African Repository and Colonial Journal*, ii. 54-61, 338. At the Annual Meeting in January 1827, Henry Clay denied that the object of the society was to emigrate the whole coloured population but to reduce it to reasonable proportions.

country in the world, her institutions of modern times, dating their birth with the American revolution, are based substantially on moral rectitude and the equal rights of man. But, Sir, let me not be misunderstood on this delicate and important question. With the enthusiasts of the North I embark not on the wild and destructive scheme, which calls on the South for immediate and universal emancipation—but, Sir, I will not offend against the talent, and refinement, and magnanimity, by which all who have the happiness to know it at all know it to be distinguished, by suggesting the possibility that what long-lived error has made indispensable for the present, she can wish to increase, strengthen and perpetuate.'

In the following year the Society disclaimed in the most unqualified terms any design to interfere on the one hand with the legal rights and obligations of slavery, and on the other to perpetuate its existence.¹

The offence against the equal rights of man, which was implicit in the slavery of the South, and the disabilities from which the free Coloured suffered in varying degree in every state of the Union, would be absent from their African state. This was another reason for their migration. It was for their benefit. 'Neither humanity nor legislation' could relieve them in America. But in their new home they would be entitled to all such rights and privileges as are enjoyed by the citizens of the United States.

'New forms of government, modelled after those which constitute the pride and boast of America, will attest the extent of their obligations to their former masters; and myriads of freemen, while they course the margin of the Gambia, the Senegal, the Congo, and the Niger, will sing, in the language which records the constitution, laws and history of America, hymns of praise to the Common Parent of mankind.'²

Thus, by migrating from the 'finest country in the world' to the 'cheapest country upon earth' they would be able to work out their own destiny and at the same time help to bring civilization to the Natives of Africa.

¹ *African Repository*, i. 13, 335.

² The quotation is from the third annual report of the American Colonization Society, and is extracted from the *Fifteenth Report of the African Institute*, pp. 82-7.

The American Colonization Society did not fail to be faithful to these professions. Three years after the colony had been effectively established at Monrovia, the settlers became possessed of wider powers than were at any time enjoyed by the Nova Scotians of Sierra Leone. The Directors were themselves at first alarmed by the rapidity of the progress. They had drafted a simple constitution which gave all the authority, which they did not retain in their own hands, to their Agent in Africa, Jehudi Ashmun. He also at first doubted the capacity of the settlers for self-government. But he was satisfied that the developments, which caused the Directors anxiety, had 'grown gradually out of the altered and improved state of the colony', and that they were 'neither the offspring of a rash spirit of experiment nor made without evident necessity'.

The Government which thus emerged consisted of an Agent and a Vice-Agent appointed by the American Colonization Society; a Registrar, a Treasurer and a Sheriff chosen by the Liberian electors, who also returned two members of the Council. In addition every settlement of at least sixty families annually elected two Commissioners of the Agricultural Board, two of the Health Board, and two Censors to be conservators of public morals with special instructions to report idlers. The Agent, however, had the right to negative any election and to order another to be held. He also appointed the five magistrates, the Clerk of the Court and the Constables. Every male coloured person, who had subscribed an oath to support the constitution and who held land, was eligible for office and was entitled to vote. Ashmun was satisfied by his experience that the way the influential minority, if not the majority, of the colonists exercised their rights promised the certain (but, he added, not early) arrival of the time when the directors would be able to withdraw their agents and leave the people to govern themselves. His successor John Mechlin was equally optimistic. The election held in 1829 reminded him of the United States, 'both as regards the violence of the party spirit exhibited,

and the implicit obedience to the will of the majority after the result was known'.¹

Ashmun's reference to the influential part of the population is explained in a letter he wrote in 1827² in which he divided the colonists into four classes: (i) The older settlers who 'were fixed in comfortable dwellings surrounded with their little cultural premises', and who were employed in the coastal traffic and the country trade, or who were mechanics, each with from four to a dozen apprentices; (ii) About a third of the population who after exhausting efforts had just got established; (iii) Settlers who had not been a year in the country; and (iv) Those who were not quite useless to the colony but altogether useless to themselves, being unable to look even a month ahead. Here we have the result of five years' progress which, even if we make allowances for possible overstatement, compared favourably with the situation in Sierra Leone five years after the first settlement of the Nova Scotians. At that time the agitation against the quit-rent was coming to a head. The Sierra Leone Company could rely only on about fifty heads of families, who, however, were all hostile to the land-tax; while at the election of 'hundreders' and 'tithingmen' in 1797 only the most ignorant and perverse of the colonists were chosen.

In 1834 the leading colonists of Liberia asked that the Council should be enlarged and its powers expanded. The Colonization Society being in debt, and knowing that the Government of the United States would not take over its responsibilities,³ readily acceded to both requests. The number of settlers who, with the Agent and the Vice-Agent, formed the Council was increased from two to six, and they were empowered to appoint such officers as they pleased, to impose taxes and customs duties and to

¹ *African Repository*, viii. Address to the people of the U.S.A. For the Constitution of 1825, see xi; Gurley, *Life of Ashmun*, pp. 214, 242, 360.

² *African Repository*, iv. 16-17.

³ *Ibid.*, pp. 12, 51-8. The Society invited the Federal Government in 1828 to take over the colony, but the Committee of Congress to which the memorial was referred reported against it.

appropriate the proceeds as they saw fit, subject to the approval of the Agent and the Directors. Thereafter, only the Agent, the Vice-Agent, the two physicians, the Colonial Secretary and the storekeeper were appointed and paid by the Society, which thereby saved upwards of \$5,000 annually. No sooner were these concessions granted than the directors received a letter from the Rev. J. B. Pinney, who succeeded Mechlin as their Agent in the same year, drawing their attention to the unsatisfactory state of the colonial statute book. The contents of it, he declared, did not cover one point in a hundred on which the magistrates were called upon to adjudicate, and the standing instruction that they should be guided by the common laws of England and of the United States was of little use and only added to their difficulties and embarrassments. Moreover, the Justices of the Peace were innocent of any law. The elected members of the Agricultural and Health Boards did not fulfil their duties because they were unpaid, while the settlers generally found trading a more fascinating and remunerative occupation than farming and neglected the cultivation of the colony. The directors deplored these facts, but were unable to do anything to remedy them beyond expressing their willingness to pass any legislation that was necessary, and instructing the Dane Professor of Law at Harvard University to prepare a code of laws for the colony.¹ The result of these activities was a constitution modelled more closely on that of the United States, and giving the colony full self-government.

There were at this time three centres of settlement in Liberia: (1) Monrovia, which, as we have seen, was founded by the American Colonization Society; (2) Grand Bassa, which the Pennsylvania and Mississippi Societies established and which was more or less connected with Monrovia; and (3) Cape Palmas, the colony of the Maryland Society, which was independent of the two others.

¹ *African Repository*, x. Special Report concerning the present condition of the Society's debt; also *ibid.* x. 53, xi. 100, and Resolutions passed 30 Jan. 1834.

The new constitution united the two former into the Commonwealth of Liberia, of which each became a constituent county, named respectively Montserrado and Grand Bassa.¹ Legislation was vested in a Council consisting of ten elected representatives, six from Montserrado and four from Grand Bassa. The Governor presided and retained his right to veto legislation. The Society also reserved to itself the right to disallow any treaty made by the Council with a Native chief. The Governor was the chief executive. He still held office during the pleasure of the Society, but the Lieutenant-Governor, who took his place in the event of a temporary vacancy, was elected. The Governor was also *ex-officio* Chief Justice, and was instructed to administer as the civil code of the Commonwealth 'such parts of the common law as set forth in Blackstone's Commentaries as may be applicable to the situation of the people', but subject, of course, to any local laws already in force, or which might be enacted in future by the legislature of Liberia.²

Thomas Buchanan was appointed the first Governor with authority to put the new constitution into force. On reaching Monrovia in 1839 he summoned meetings in all the settlements and put the document before them. He was at once met by a demand, to which he felt bound to yield, that the clause relating to the Governor's veto should be amended so as to bring it into line with the provision of the Constitution of the United States which gives Congress an overriding power over the Presidential veto by a two-thirds majority. The amendment deprived the American Colonization Society of one of its few reserved rights.³ But Buchanan welcomed it because he considered that the colonists had given the most gratifying and satisfactory evidence of ability to govern themselves so far at least as law-making was concerned. In the first

¹ Montserrado county included the settlements of Monrovia, New Georgia, Caldwell and Millsburg, Grand Bassa, the settlements of Bassa Cove, Edina, Bexley, and Marshall. ² *African Repository*, xv. 68-71.

³ The society never formally renounced the right, but did not exercise it. See *African Repository*, xxii. 58.

session they passed acts promoting agriculture, governing the judiciary, regulating the fees chargeable by public officers, improving the defences of Freetown, adjusting the port charges and providing for the employment and the oversight of the poor. Nor was the Cape Palmas colony less backward in self-governing achievement. Its Governor and all its officers were coloured men. No one without this qualification had any hand in its administration. The only whites were missionaries. And after Buchanan's death in 1841, a coloured man was his successor in the Commonwealth of Liberia, and no white has ever filled the office since.¹

The stage which Liberia had now reached in its advance towards independence raised the question of its international status. In 1843 both colonies agreed together to impose a 6 per cent. *ad valorem* duty on all imports, including those consigned to European traders. A difficulty at once arose over its collection. Certain British traders refused to submit to it, contending that the Negro settlers had no right to exercise any sovereign authority over them and were merely a collection of citizens of the United States living on the coast of Africa. Unless, therefore, the United States annexed Liberia, or assumed a sovereignty over it, it was still a territory under Native chiefs and 'wholly exempt from vassalage or subjection to any European power'.² Diplomatic conversations in London made clear that the Government of the United States was not willing to do either. It appeared, therefore, that the only course for Liberia to pursue, if it was to retain its identity as a modern Negro state, was to proclaim its independence and assert its own sovereignty.³

The steps by which this end was achieved were according to precedent. First the Liberian legislature passed a resolution, which had been drafted by a Committee, asserting that:

'We have in common with the rest of the great family of a common parent certain rights which cannot be impaired but by conventional agreement.'

¹ *African Repository*, xvi. 34-41; xvii. 301.

² *The Atlantic and Slavery*, p. 227.

³ Sir H. Johnston, *Liberia*, pp. 192-4.

Next a plebiscite was held which proved that the people favoured assuming entire responsibility for their own government. Finally a convention was summoned to draft a constitution. The Declaration of Independence took its stand on the inalienable right of all men to life, liberty, and the possession and enjoyment of property. The connexion with the American Colonization Society was defined as a compact by which the Liberians had delegated certain powers which they could resume at any time. The constitution was closely akin to that of the United States, with a President elected by the people, a Senate and a House of Representatives.¹ Thus in twenty-five years Ashmun's settlement had grown into a Negro Republic copied from the most modern democratic example.

2

The superior political acumen of the American-Liberians, as compared with the Nova Scotians of Sierra Leone, was due to the higher ability and greater experience of many of them. They had watched the constitution of the United States of America in working for thirty years or more before they sailed for Africa. Over four thousand of them had been born free and were therefore more or less assimilated to American life. Others had been in a position to purchase their freedom before emigrating. Still the number of those who were capable of carrying on the elaborate and complicated republican government they had adopted was absurdly small. According to one authority no more than four thousand five hundred were 'civilized', according to another between seven and eight thousand: and they were in settlements scattered over a coastal belt of three hundred and fifty miles which was the 'civilized' territory of the Republic.² Nevertheless the emergence of even so small an independent state in Africa was an event of outstanding importance

¹ *African Repository*, xxiii. 59, 80-1; xxiv. 1-12.

² N. Azikiwe, *Liberia in World Politics*, pp. 65-6; G. W. Allen, *The Trustees for Donations for Education in Liberia*, pp. 2-3; R. Buell, *The Native Problem in Africa*, ii. 709.

to the Negro peoples. It gave them an opportunity of proving their capacity for democratic government. It enhanced their international prestige by adding another Negro state to Hayti. But whereas Hayti had arisen out of bloodshed and massacre, and had been governed by Dictators and Emperors, Liberia, as its name implied, had been born of philanthropy and nurtured in freedom. The planting of its capital on Cape Montserrado, the first landfall made by ships sailing direct from Europe to the Gold and Slave Coasts,¹ was like a timely warning that here now was a colony of Negroes civilizing Africa for themselves without European intervention. Hence the American-Liberians have been strongly nationalistic and suspicious of European intentions. Their determination to prevent any non-Negro penetration of their territory is shown by their constitution forbidding any one to own land who is not a citizen and prohibiting any person not of African descent being naturalized.²

But while thus protecting themselves against whites and Asiatics,³ the American-Liberians have been willing to receive into their ranks aboriginal Africans who became qualified to be included among the civilized. The Declaration of Independence contained a statement that 'our numbers have been increased by accessions from the Native tribes'. On the other hand this assimilation did not reduce the division between the 'civilized' and the 'Natives'—the former term designating persons living on the coast who could speak English, and the latter the aborigines.⁴ The Natives who passed over merely withdrew from the one and joined the other. The separation between the two remained intact both in theory and practice, until the beginning of the present century, when the Government adopted a Native policy to diminish it. In the meantime a gradual process of assimilation went on through intermarriage, through adoptions and through

¹ *The Atlantic and Slavery*, pp. 43-4.

² Art. V (13), (14).

³ Over three hundred Barbadians were admitted in 1865, among them being Arthur Barclay, a future President.

⁴ *Harvard African Expedition*, p. 44; Azikiwe, p. 76.

daily contacts, so that to-day the distinction is more blurred. The descendants of the American-Liberians may now number twelve thousand, but the Natives who have come under their influence may be as many as forty thousand; while the great majority of children attending school are aborigines.¹

The founders of the Republic never contemplated that the Natives should be excluded from its benefits. The constitution declared that 'their general improvement and advancement in the arts of agriculture and husbandry' were 'the cherished objects of the Government'.² Their land rights also were protected by law. Citizens were forbidden to buy direct from them, and all transactions with them were kept in the hands of the Government. Such land as was required for settlement had to be obtained from them 'on a fair and complete understanding', recorded in 'a proper instrument in writing'; while another act laid down that chiefs and headmen should be neither compelled nor tricked into parting with land if they were unwilling to 'deal in the way of pacific negotiation'.³ These precautions proved quite inadequate to protect the Natives living within the coastal belt from encroachments. 'Every man did what was right in his own eyes', and in the absence of surveys and demarcated boundaries there was much confusion and overlapping. The Natives naturally suffered, and in 1904 some of their chiefs complained to President Barclay that they had been gradually deprived of all their land by the 'civilized citizens taking up very large areas which included Native towns'. In his inaugural address in the same year the President admitted the justice of the complaint:⁴

'When the chiefs of the country executed deeds of cession to Liberia, there was in some deeds an express, and in others an implied, reservation of the towns and plantations in actual occu-

¹ According to one estimate, now ten years old, 8,400 out of 9,000, Buell, ii. 751; J. L. Sibley and D. Westermann, *Liberia, Old and New*, pp. 80-2.

² Art. V (14), (15).

³ Act Pertaining to Lands and Act Relating to Treaties.

⁴ Buell, ii. 736.

pancy. . . . The reservation has been too often ignored, and the Native populations of many well-known towns near the settlements were gradually deprived of all their lands by the settlers.'

These complaints of the Natives were among the reasons moving the Government in 1905 to adopt a policy defining Native land rights. Twenty-five acres for each family were taken as a standard, and a title could be issued to a clan on this basis. The area then became a 'township' governed by the Native authorities under the general supervision of a Native Commissioner. The land was held in communal tenure until the occupants petitioned for it to be divided up into individual holdings; and one year after that had been accomplished they could become voters, that is to say full citizens. Moreover, a Native could acquire a town lot if he undertook to build a house on it, or a farm lot subject to his cultivating a quarter of it. In both cases he became qualified to vote. Another reason behind this legislation was the use that had been made of Native votes in elections. The constitutional qualification for the franchise was 'the possession of real estate', a phrase that did not exclude collective ownership. Hence, a title-deed bearing the names of any number of joint owners could make them all voters. Advantage had been taken of this opening to swell electoral returns by mass polling, and legislation had been necessary to curb it by prohibiting registrations through title-deeds containing the names of more than three owners. A few years later tribal Natives were given an opportunity of being represented in the lower house of the legislature. By paying \$100 they could send a referee to speak on their behalf, but not to vote, on any matter of interest to them.¹ Thus Liberia adopted, at any rate in theory, a Native policy in keeping with modern standards, and one calculated gradually to fuse the two sections of the population. Unfortunately inadequate finances and other distractions interfered with any effective application of it.

The history of Liberian finance is the story of the

¹ Buell, ii. 735-6; Azikiwe, p. 81; Johnstone, pp. 315-18.

Republic's failure. The position was always precarious owing to the smallness and poverty of the civilized population, its diffusion over so wide a coast-line and its primitive means of communication. Added to these disadvantages, and aggravated by them, were frequent troubles with the local Natives and boundary disputes with Great Britain and France. At the same time the management of the finances was inefficient and often corrupt, and was hampered by its almost exclusive dependence on the revenue from customs, and by having to contend with a depreciated currency. The last difficulty moved the Government in 1871 to raise its first foreign loan of \$500,000 in London. The business was clouded by chicanery on both sides and caused a political crisis in Liberia and the bankruptcy of the lenders. Not more than a fifth of the issue ever reached the treasury, and the transaction served only to involve the country in the fatal process of repeatedly borrowing in order to refund indebtedness without getting anything to spend on developing its resources.¹ By 1904 the total debt had risen to \$800,000, including \$135,500 internal bonds, and \$200,000 floating debt. President Barclay, who had initiated the new progressive Native policy, was now in office. He now embarked the Republic on a new venture in finance by negotiating a loan of \$500,000 with the Liberian Development Company—a British concern interested in rubber. The terms required the lender to take over the floating debt and to expend the balance in constructing roads, establishing a bank, and other developments. But they also introduced British Inspectors of Customs and Financial Advisers, and thus made the first breach in the barrier against foreign interference. Once again no benefit accrued to the country, for the Company failed to play its part and the loan only left the government with an increased burden at a time when revenue barely sufficed to meet current expenditure apart from interest. After another six years the position was still worse. The United States then intervened and sent out a commission to report. Among other proposals

¹ Johnstone, i. 258-68.

it recommended that the United States should advance enough to enable Liberia to refund her debts, should then assume as security the exclusive control of the customs and undertake the reform of the internal administration. But the suggestion was not practicable, for, apart from the American Government's unwillingness to act, the interested European powers were not prepared to withdraw. The only possible alternative was an international receivership, and it was duly established with representatives of the United States, Great Britain, France and Germany, the last having built up considerable economic interests in the country. At the same time a third loan of \$1,558,000 was arranged to refund the 1871 and 1906 debts and to meet other accumulating obligations. The receivership was not popular with the Liberians and its institution was greeted with some protesting rioting in Monrovia and other places. Nevertheless, it might have succeeded had not the world war reduced the customs receipts on which it mainly depended. Interest soon fell into arrear, and the government was driven to make a fourth attempt to retrieve the situation by borrowing \$5,000,000 from the United States. The price now to be paid for the accommodation had risen to control over the Native administration and over the frontier force of the Republic as well as over its finances. At first the legislature refused to accept such onerous terms, but in the end it capitulated. And then the Senate of the United States caused universal rejoicing by declining to ratify them.

The failure of this fourth loan threw the country back on its own resources, causing the Government to undertake actively the opening up of the hitherto neglected interior and to make a second agreement with a rubber interest—the American Firestone Plantations Company. The first essential for recovery was an increased revenue. The interior could contribute both indirectly by developing its trade with the coast and directly by paying more hut tax. The former depended upon constructing roads and improving communications, the latter implied

extending the Native administration, at that time confined to the civilized counties, to the rest of the country. This was done by regulations under the Act of 1905, applying the same principle of maintaining the authority of the chiefs and their councils, but separating the 'interior jurisdiction' from the 'county jurisdiction', and so perpetuating the division between the coast and the interior. The Natives of the county jurisdiction were now placed under County Commissioners. Those in the interior jurisdiction under five District Commissioners, who, with their assistants, were subordinate to a Commissioner-General responsible to the Minister of the Interior. The District Commissioners were instructed to work through the chiefs, to protect the Natives' rights, to encourage them to farm, and assist them to market their produce. The chiefs and their councils were responsible for maintaining order, administering justice subject to appeal to the District Commissioner's court, collecting taxes, repairing roads and furnishing carriers. Furthermore, President King, who was now in office, made a tour of the interior and developed the practice of holding periodical conferences with the chiefs. At one, held in 1923, he discussed his programme of road construction.¹

The reforms of 1905 had been hampered by financial distractions. The reforms of 1921 and 1923 were undermined by forced labour. It was generally recognized that compulsion might be applied to work on constructing and maintaining roads, subject, however, to the workers being paid, being properly fed and housed, and their recruitment being supervised.² In Liberia they were neither paid, nor fed, nor even supplied with tools; and the abuses connected with their employment were one of the reasons for

¹ Departmental Regulations 1921 and 1923; Buell, chap. 96 (5); *Harvard African Expedition*, chap. viii. The returns of hut tax indicate the progress made in bringing the Natives of the interior under control. In 1911, \$10,000 were collected; in 1925, \$178,540, mostly from the interior.

² G. St. J. Orde Browne, *The African Labourer*, p. 37; cf. *The Atlantic and Slavery*, pp. 114-15.

the appointment by the Liberian Government of the International Commission under the auspices of the League of Nations in 1930.

In the meantime, the arrangement with the Firestone Plantation Company had come into operation. It was embodied in three agreements. The first transferred to the Company a rubber plantation formerly leased to the Liberian Development Company. The second gave the Firestone Company the right to select and lease for ninety-nine years a million acres, 'excluding all tribal reserve lands'. It bound the Government to 'encourage, support, and assist' the Company to secure and maintain an adequate labour supply. By the third agreement the Company undertook to construct a harbour at Monrovia, the Government eventually reimbursing the cost. A clause of the second agreement brought it into line with the loan contract of 1906 by requiring the company to help the Government to borrow up to \$5,000,000 in the United States. The company fulfilled the obligation by arranging a loan with one of its offshoots the Finance Corporation of America. The terms, as might be expected, placed the country's finances not less effectively under foreign control. The agreements were not popular in Liberia. Nevertheless they were accepted because they attracted American and not European capital, and because through them the United States was all the more committed to uphold Liberian independence.¹

The second Firestone agreement was not the only commitment involving the possibility of forced labour for private enterprise. An arrangement existed for the export of labourers to the Spanish island of Fernando Po from the Sinoe county and from Cape Palmas, and the Vice-President of the Republic and the President's brother were implicated in it. Moreover, the African custom of holding people as pawns was widely prevalent. The International Commission inquired into all these matters and

¹ The second Firestone agreement is printed in Buell, ii. 881-8; the loan agreement with the Finance Corporation of America in League of Nations, 'Request for Assistance by the Liberian Government, 1932'.

found (1) that the forced labour used on public utilities had been recruited and employed wastefully and frequently under conditions involving systematic intimidation and ill-treatment by officials; (2) that a large proportion of the contract labourers shipped to Fernando Po were recruited under conditions of compulsion scarcely distinguishable from slavery; (3) that privately employed labour had been impressed, though there was no evidence that the Firestone Plantations Company consciously employed any but voluntary labour and all their workers were free to terminate their employment at will; (4) that American Liberians had taken Natives as pawns. The Commission found also that the division of the country into a 'civilized' coast and an 'uncivilized' interior had reduced the chances of the backward Natives advancing, and that the administration of the interior required recasting with the assistance of foreign officials.¹

When the Government of Liberia received the report it passed Acts prohibiting the export of contract labour, re-organizing the hinterland, forbidding pawning, and creating a public health and sanitary service. But without money and administrative competence, laws were of little avail; and the problem was reduced once more to the terms on which financial assistance could be granted. The last loan, like its predecessors, had served only to refund past loans and to pay off arrears, after which fresh arrears had accumulated. Less than half of it had been issued, and the Corporation was not bound to advance the remainder until the customs revenue exceeded \$800,000,² a figure not at present even remotely in sight, and impossible of achievement in the prevailing world depression. The League of Nations was willing to assist, but subject only to the Liberian Government's accepting a plan of reform, which, like the unpalatable conditions attached to the proposed American loan of 1920, made foreigners administrative controllers and not only advisers. When the Government refused the League withdrew, and the

¹ League of Nations. Report of International Commission of Enquiry in Liberia, 1930.

² Art. X (5).

problem reverted to the United States, with the result that new plans for the rehabilitation and development of the country have been inaugurated with the assistance of foreign experts.¹

¹ *Journal of the Royal African Society*, Oct. 1936, pp. 432-4. *New York Times*, 30 Aug. 1936. It is worth noting that the National Association for the Advancement of the Colored People insisted that any man appointed as adviser to Liberia should 'believe that Liberia has a right to her independence and that the Negro race has proved its capacity for self-government', Azikiwe, pp. 278-9.

PART IV
SOUTH AFRICA

CHAPTER I

THE CAPE. 1652-1853

THE Cape of Good Hope was not at first occupied as a place of white settlement like Virginia, nor as a port of export like the trading stations on the west coast of Africa, but only as a victualling station on the way to the East. Nevertheless, it soon began to spread into the interior and to attract settlers of Dutch, French and German extraction; and by the end of the eighteenth century an urban community of traders and officials was well established at Capetown. In the country immediately to the north and east of the capital a settled body of pastoral and agricultural farmers had developed a reasonably high standard of colonial living, while farther to the east flowed a stream of trekker pastoralists who became more fluid and nomadic the farther they were removed from Capetown.

The Dutch East India Company instructed the first commander at the Cape to keep on good terms with the indigenous Hottentots, and to induce them to supply him with slaughter stock. He was forbidden to appropriate more land than was necessary for his vegetable garden and for grazing. The Directors of the Company were convinced that the Hottentots would respond to good treatment. Van Riebeeck had no illusions on the subject, for he had two difficulties to contend with. In the first place the political organization of the Hottentots was too loose for him to make any binding arrangements with their chiefs. At one time he had hoped to remedy this defect by elevating one of them into the position of 'Supreme Chief of the Hottentots', but the selected individual failed him. In the second place his insistence on occupying land, over which the Natives considered that they had rights of grazing, aroused their vehement hostility. The first Hottentot war in 1659 brought home to the Directors

of the Company that this was the real cause of the trouble. They were inclined to blame the colonists for what had happened, and suggested that the land should be bought from the Hottentots. An agreement of sale was thereupon executed in 1672, the chief being described as 'hereditary sovereign of the land', a title which he was incapable of comprehending.

The two peoples were now divided from each other by a boundary which was protected by elaborate instructions. Hottentots could pass over it at only one of the guard-houses. They were forbidden to enter any settler's house. No settler's stock could graze on the Hottentot side. The plan failed because it was not meant to apply to the Company. The Dutch never envisaged the surrender of any right to enlarge the colonial boundary if they saw fit. The result was the second Hottentot war, which was concluded by a peace containing no reference to boundaries. All that the Company could in future do for the Hottentots was to forbid the colonists to trade with them, to lay down limits beyond which European occupation should not extend, to order the punishment of any one maltreating a Hottentot, and to arrest as vagabonds Hottentots found carrying arms. These provisions accorded with the accepted principle that the two peoples were living together in the same country as allies and by mutual consent. Hence Hottentots were not enslaved, unless they were captured in war. Beyond this they possessed scarcely any rights.

While these foundations of South African native policy were being laid, the colony as a whole had but little connexion with the outside world. Unlike the British American colonies, it received but few immigrants and seldom sent visitors to Europe. Its exports were diminutive, consisting mainly of supplies for passing ships and a small surplus of grain sent to Batavia. Only meagre quantities of wine were shipped to Europe, and, after 1772, one or two cargoes of wheat. The paucity of exports was balanced by the smallness of imports.¹

¹ G. M. Theal, *History of South Africa, 1562-1795*, ii. 142-5.

The Afrikanders outside Capetown and its immediate neighbourhood had but few wants and produced but little for sale. They were peculiarly the product of their local environment because of their unbroken isolation from outside influences. No matter from what country they came, whether Holland, France or Germany, they all conformed to the same type in the end.

A certain phlegm was an element in their character, and it could be traced to a variety of causes. An absence of personal exertion was common to all peoples dependent upon slave or cheap labour. The oft-quoted statement of Baron van Imhof, in the middle of the eighteenth century, that, the colony having imported slaves, every common or ordinary European became a gentleman and preferred to be served than to serve, and that the farmers were not farming at all, but were owners of plantations and of cattle ranches, who considered it beneath their dignity to work with their own hands, was applicable to other countries as well as to South Africa. At the same time there were many influences which developed a restlessness in the Afrikanders which was the complete reverse of immobility. Observers at the beginning of the nineteenth century were struck by their apparent lack of local attachments. They seemed to be ready to sell out at any time and move elsewhere. The lure of the frontier where land was to be had for the asking, where if a farm proved to be unsuitable it could be abandoned without hesitation and another appropriated, where game was plentiful and where hunting expeditions gave opportunities for prowess that stirred the admiration of the maidens, was irresistible. It was reinforced by the insecurity of the customary land tenure and by a law of inheritance which, by requiring the equal distribution of a property between the children, rendered usual its sale on the death of the proprietor. If one of the heirs purchased it, he did so usually on borrowed money, and consequently reoccupied it with insufficient capital. Few places remained in the same family for more than two generations. The sons either bought other farms on credit, or migrated to the frontier.

No other course was open to them. 'Every man was a burgher by rank and a farmer by occupation.'¹

The frontier was obviously the place for an aspiring youth. An exiguous capital could fully equip him for the enterprise. A second-hand wagon, a span of oxen, a horse and two mares, fifty cows and young cattle, and a few hundred sheep and goats were all he required; and they cost him the equivalent of about £165. With this equipment, and a large gun, an axe, an adze, a hammer, two wagon chests, a churn, a large pot for boiling soap and one or two smaller ones for cooking, having married a wife, and hired a family of Hottentots, he fared forth in the certainty of what lay in front of him. Finding an unoccupied place to his liking, he applied for it to the nearest magistrate, and thereafter held as a 'loan place', a yearly tenure at an annual rent of 24 rix dollars. Even this anchorage was often only temporary, and was not absolutely necessary. Many stock-owners held no ground at all, but drifted about from place to place with their flocks, their Hottentots and their families, living in temporary huts or in their wagons. Patterson found one sheltering for the winter under a large '*Aloe dichotoma*'. The climate favoured them and made their existence tolerable. Some owned no stock at all and subsisted on hunting.²

The isolated life into which the frontiersmen were born, and to which they clung as to a sacred tradition, was no incentive to progress or change. Nor was it a fruitful soil for the new philosophy of fraternity and equality, if applied to the coloured peoples. Nevertheless, the implications of the humanitarian movement were unexpectedly brought home to the frontiersmen as a result of their request that a magistracy should be established at the frontier village of Graaff Reinet for their convenience. The second occupant of the post was H. C. D. Maynier,

¹ *Notes on the Cape of Good Hope*, p. 43; G. Thompson, *Travels in Southern Africa*, pp. 130 et seq.

² Thompson, op. cit., loc. cit.; W. Patterson, *Narrative of Four Journeys*, p. 58.

who was a disciple of the new egalitarian philosophy. So incensed were the frontiersmen with him that they rose and expelled him from his office in the same year (1795) that witnessed the transformation of the Netherlands into the Batavian Republic, its alliance with revolutionary France, and the consequent seizure of the Cape by the British.¹

The British thus stepped into a situation which had been developing for a century and a half, was now well established and was inimical to the new humanitarianism. In this chapter we are only concerned with the Hottentot or 'Cape Coloured' side of the problem. It was another edition of the Indian problem that we have already examined in Mexico and in Brazil.² It had the same two sides—the status of the Natives as part of the colonial population, and the conditions of their employment by the whites. Alternatively these two aspects may be stated in the following five questions:

1. Were the Hottentots to be equal to and assimilated to the whites?
2. Were they to be separated from them?
3. Should they be encouraged to work for them?
4. If they were to be employed, was any protection due to them beyond the guarantee of equal rights?
5. What, if any, areas should be reserved for their exclusive occupation?

The new Government at once declared that Maynier was 'the fittest man in the world to be entrusted with the management of public affairs at Graaff Reinet', and he was appointed to be its Resident Commissioner. He was instructed to encourage the Hottentots to enter the service of the farmers, but only 'under the protection and guarantee' of registered contracts; while those who were unable or unwilling to go back to service were to be settled on land registered in their names—a provision that was not legally possible. Here, so it was thought, they would be

¹ *Records of Cape Colony*, iv. 285-7; E. A. Walker, *A History of South Africa*, chap. v; Theal, iii. 112 et seq.

² *The Atlantic and Slavery*, Part II, caps. i and ii.

able to live under their own chiefs and according to their ancient customs. Maynier was able to accomplish but little of this comprehensive programme before he had to be withdrawn in the face of the hostility of the farmers. The organizing of Hottentot settlements had, however, been taken up by missionary societies.¹

The Moravians opened a station in 1792 at Genadendal about eighty miles from Capetown, in a situation which was very favourable to their purpose. The London Missionary Society followed in 1799 and started work amongst the Hottentots on the eastern frontier, sending out Dr. Vanderkemp, a 'man of intrepidity rather than of tact', who became highly obnoxious to the colonists. Bred up as a cavalry officer amusing himself in dancing halls, he gave the first indications of the humanitarianism, which he afterwards carried to such lengths, by marrying below his rank and by adopting the manner of life of a common mechanic. His conduct necessitated his leaving the army; and soon afterwards the simultaneous loss of his wife and of his illegitimate child by another woman in a boating accident opened the way to his conversion. It was accompanied by an overwhelming and morbid sense of his unfitness which could be purged only by a complete surrender.

'Lord, if truly the sheep who presently are to sit down at Thy Table are so pure, so obedient, so useful, I scarcely dare, who from head to feet stink from the filth of sins, to sit down with them. O invite me then among Thy swine.'

The swine were not, of course, the Hottentots. Having been made in the image of God, they were 'on an equal footing in every respect with the colonists'; and Vanderkemp and some of his colleagues testified to the belief by marrying native women.²

Vanderkemp approached the Hottentot problem somewhat in the separatist spirit of the Jesuits of Paraguay. His conception of a Hottentot settlement was that the

¹ *Records*, iii. 53-4; P.P. No. 50, 1835, pp. 30-3; W. M. Macmillan, *The Cape Colour Question*, pp. 145, 147.

² A. D. Martin, *Dr. Vanderkemp*, pp. 48, 51, 106.

inmates should be employed only by the society, and that all the product of their labour should be its property and be disposed of for its benefit. In his opinion the Hottentots should be kept apart from the colonists, who were 'rogues and murderers whose esteem could not be won except by taking part in their deeds'. When, therefore, he was offered a site for a settlement on condition that he would neither interfere with nor discourage Hottentots working for the farmers, he refused to accept the condition. His case against the farmers was justified in so far as they insisted on the paramountcy of their interests and were intolerant of any one who attempted to interfere with them or criticize their actions. For them the Hottentots filled a place allotted to them by custom, and in it they should remain. It may be defined as follows: as free labourers their superiority to the slaves was recognized, but they had no legal rights, could own no land, and had no sure means of protecting themselves, their employers being both advocates and judges in any difference with them.¹

The first step in the correction of these anomalies was taken by Lord Caledon, who came out as Governor in 1807. Unlike Vanderkemp, he believed that the civilization of 'the Coloured' could best be effected through service with the colonists. In his proclamation, in 1809, he made no allusion to separate settlements for the Hottentots, but declared that 'individuals of the Hottentot nations like other inhabitants' must have fixed places of abode registered with the magistrates, and must not move about without passes. But he also took the important step of bringing them under the law, and, in particular, of ordaining that, when charges of ill-treatment involved injury to life or limb, the accused should be prosecuted under the common law of the colony.² The result was both immediate and spectacular. Bringing the Hotten-

¹ Martin, p. 154; *Records*, xxxv. 319; Lichtenstein, *Travels in Southern Africa*, pp. 113, 146.

² *Records*, iv. 175, vii. 167, xxxv. 308; P.P. 50 of 1835, p. 20; G. W. Eybers, *Select Constitutional Documents*, pp. 17-18; Macmillan, p. 167; Walker, pp. 154-9.

tots under the common law gave the missionaries the chance of arraigning the farmers before the circuit courts which began to sit in 1811. In the famous 'Black Circuit' of 1812 fifty-eight white men and women were called upon to answer for alleged crimes against their servants. Over a thousand witnesses were examined, and the proceedings were prolonged over four months. So imposing a demonstration of the law as the protector of the Hottentots was an unprecedented provocation of frontier feeling, and it aroused all the more bitterness because many of the accusations were either baseless or failed for lack of evidence.¹ It made clear, however, that the Hottentots' civil status had advanced nearer to the colonists'. But they were still liable to 'domestic correction', and to imprisonment at the discretion of a magistrate, without the court proceedings which were essential with Europeans.

The fiftieth ordinance of 1828 carried their equality with the whites another step forward by prohibiting their punishment for any offence except after proper trial, and by giving them the right to own land anywhere in the colony. But it still treated them as a separate class of the community, and on this account it was criticized by Dr. John Philip, who was now their leading champion. If they were to enjoy equal rights, he argued, there was no sense in specially legislating for them.² On the other hand, he favoured setting aside reserves where they could make a life for themselves independently of working for the white farmers. This, in a sense, was a separatist provision, but it differed from a legal distinction in being optional. No Hottentot need go to a reserve unless he wished; whereas the legal distinction applied of necessity to all without discrimination. The final step in its elimination was taken in the Masters and Servants Ordinance of 1842, which repealed the fiftieth ordinance and treated both white and coloured as one.

¹ *Records*, xi. 5.

² For the fiftieth ordinance, see Eybers, pp. 26-8; *P.P.* 50 of 1835, pp. 169-73; Macmillan, p. 219.

Thus, within fifty years of its first occupation of the Cape, the British Government had replied affirmatively to the question—were the Hottentots to be equal to and assimilated to the whites? Moreover, it had been consistent in applying this policy, neither making special provisions for the Hottentots' protection, nor reserving areas for their exclusive occupation within the colony.¹ It relied on its own control of the Colonial Government to see that they got fair play.

The policy was naturally highly objectionable to frontier sentiment, which was being disturbed at the same time by other Government actions. There was a reform of land tenure on which Sir John Cradock relied to curb the nomadic propensities of the frontiersmen. By converting 'loan places' into perpetual quit-rent farms with rents varying according to the situation and the quality of the land, he hoped to encourage the permanent occupation of farms and their improvement. The reform contributed to this end; but the first cost of survey, which the farmers were expected to meet, and the immediate increase of rents were more than many of them could face, and, throwing up their farms in disgust, they again became trekkers. There was the episode of Slachter's Nek, a revolt against constituted authority which ended in five of the participants being publicly hanged. There was the abolition of the Landrosts and Heemraden, who usually shared the opinion and sympathized with the outlook of the frontiersmen, and who had carried on local administration according to well-established principles. In 1827 they were swept away and were replaced by Resident Magistrates and Civil Commissioners of a more official type, who were portents of the increasing authority and efficiency of the central Government. There followed another land reform in 1832 requiring Crown lands to be put up to auction, instead of being open to occupation at

¹ The Kat River Settlement is an exception. But it was established east of the Fish river on land from which Xosas were evicted. The missionary settlements were not, properly speaking, 'reserves' but missionary stations. The Griqua states of Waterboer and Adam Kok were outside the colony.

fixed rents. There was the refusal of the British Government to assent to the Vagrancy Law of 1834, which authorized Field Cornets to apprehend any one not having an honest means of subsistence, and to bring him before a magistrate who might employ him on public works until he entered the service of some respectable person, or found security for his good behaviour. When it was disallowed the protesting farmers despaired of being able to 'preserve proper relations between master and servant' under British auspices.¹

The Great Trek was the outcome of this accumulation of grievances and affronts. It carried the old frontier conditions northwards, whither we shall follow them in subsequent chapters. It left the field more clear for the political assimilation of the Cape Coloured.

We have seen that the frontier conditions in which most of the Afrikanders were begotten made them, as were the American western pioneers, impatient of governmental interference. There arose movements against the executive in Capetown and in favour of self-government, which are comparable with the demands of the American pioneers for a larger representation in their state legislatures, and which were reinforced by the arrival of the British settlers of the 1820 immigration. Unlike an American state, however, Cape Colony had no power to settle the problem for itself. Authority lay solely with the British Government, whose contemporary sense of trusteeship for the Hottentots and for the slaves whom it freed inclined it to delay its acquiescence. In dealing with the problem it was, so to speak, in the same relative position to the Cape as was the Federal Government to the states. But it was infinitely more detached. No clash of economic interest, like northern protection and southern free trade, came between it and the colony. No

¹ Eybers, pp. 30, 142-5, *Manifesto of the Emigrant Farmers*; *P.P.* No. 538 of 1835, pp. 723-4. The emancipation of the slaves affected the east of Cape Colony less than the west where 84 per cent. of the slaves were domiciled. On the other hand, equality for the Coloured was resented more on the frontier than in Capetown.

federal constitution gave opportunities for dissensions over central and state rights. No manœuvring for local political support was necessary, for the people of the Cape had no voice in appointing the governors who ruled over them. Nor had the British Government, as had the Government of the United States, to adjust its colour policy in Cape Colony to the claims of frontiersmen moving ever farther into the interior.

In the same year that the trekkers began to leave the colony, the principle of political equality between White and Coloured was accepted in the Municipal Boards Ordinance of 1836, and again in the Municipality of Cape-town Ordinance of 1840. A householder was defined in both as any proprietor or renter of a dwelling-house of the yearly value of £10; and, as later in the United States, where urban conditions were more favourable to racial political co-operation, qualified coloured municipal voters in the Cape exercised their franchise rights without protest or interference from the whites.

The parliamentary franchise, however, offered greater difficulties than the municipal franchise, and the British Government hesitated several times before acceding to the petitions from the colony praying for representative institutions. To assent to them meant abandoning some of the control by which it sought to exercise its imperial trusteeship. Lord Stanley stated its fears in a dispatch of 1842 in the following terms:¹

'The peculiarly mixed character of the population, the oppositions of real or seeming interest between different classes of it, and above all the feelings with which the recently emancipated slaves were regarded, would interfere with that community of interest and purpose which is essential to the working of free institutions, and that each class might be tempted to abuse its newly acquired rights to the injury of others.'

And so also Earl Grey wrote in 1846:

'It certainly does not seem to me safe, as regards the interests either of the mother country or of some classes of the colonists,

¹ *P.P.* No. 1137 of 1850, p. 99.

² P.R.O. CO/48/289. Minute of 4 Nov. 1846.

that we should at once substitute for the practical despotism which has hitherto existed the unchecked ascendancy of democratic power.'

Before 1850, however, the Government had been reassured that there was 'no mischief to be apprehended from antipathies . . . either of colour or class; a proper qualification of electors being required to include the inhabitants of all races who may be presumed sufficient in point of intelligence'. But what was the qualification to be? If it were placed as high as the municipal franchise it would exclude almost all the rural Coloured. On the other hand, too low a qualification would give them a larger share in the Government than the whites would tolerate. In the end the occupation of property of the value of £25, or the receipt of a salary of £50, were decided upon, the British Government refusing a last-minute attempt of the Cape Legislative Council to double the amounts and so to reduce the coloured vote.

The Cape constitution of 1853 was the coping-stone of the series of measures by which white and Coloured were progressively equalized. It is inconceivable that so great a revolution could have been accomplished without leaving a legacy of ill will. The price paid was the alienation of a large body of colonists and their withdrawal to the north, where they developed the contrary doctrine of legal and political inequality.

CHAPTER II

THE EASTERN BORDER. 1795-1856

WE mentioned in the last chapter that the detached position of the British Government was favourable to its policy of equality in the Cape, whereas the subservience to local considerations of the Federal Government of the United States impeded its handling of the slavery problem in the South. When, however, frontier problems and the expansion of white settlement were the issues, the advantages were reversed. The Federal Government could not do otherwise than spread its constitutional control over each new territory, whether slave or free, as it was occupied. It would have been to the advantage of South Africa had some central authority been obliged to do the same—to assume a full responsibility for the friction with the Bantu on the eastern border, and to spread its control automatically over new states as they were added in the North. Indeed, such a co-ordinating power was all the more necessary in South Africa because the Bantu problem expanded *pari passu* with the spread of European colonization. On this point South Africa differed from America. As the United States frontier advanced westward it swept the Indians out of its way. The few who survived were as nothing, and the frontier 'native problem' was replaced by the heritage of Negro slavery. In South Africa the heritage of slavery is of less account, while the frontier native problem dominates everything. The British Government failed to play the same part as did the Federal Government. Its detachment made possible its determination not to add to its responsibilities, of which, it must be remembered, South Africa was but one, and to rely on a treaty system as a solvent of the border problem.

During the century after 1775 the eastern frontier of Cape Colony was the scene of nine Kaffir wars, six of which were fought in the nineteenth century. It is with

these last that we are concerned. They were marked by raids into the colony, cattle reaving, reprisals, fines and punitive expeditions, which, however, were not the underlying cause of the friction. The real point in dispute was the land, and it was complicated by the incompatibility of European and Bantu conceptions of government and of land tenure.

The Bantu system of government was neither centralized nor compact. It was in a constant state of flux owing to the custom that, while the son of the 'great wife' of a chief succeeded to his father's position, the son of the 'right-hand wife' became independent head of a portion of the tribe. Thus on the death, about 1775, of the Xosa paramount chief Palo, who ruled in the Amatola Mountains, his people were split into the eastern Xosas under his 'great son' Galeka, who later moved into the country between the Kei and the Bashee rivers, and the western Xosas, under his 'right-hand son' Rarabe, who settled down east of the Fish river.¹ On Rarabe's death the western Xosas became divided between Gaika, the 'great son', and Ndhlambi, the 'right-hand son', the former in the Amatolas and the latter on the coast. The right-hand offshoots of the parent stock acknowledged the superiority of the 'great brother' in matters of common interest, and especially when the whole nation was at war; but they would not brook his interfering without their consent in their allotted portions of land, nor in the control of their adherents. As these were two points on which European governments exercised sovereignty as a matter of course, Bantu decentralization on them was an obstacle to British attempts to govern relations with the Xosas by treaty. We shall have occasion to refer to the expedients adopted to overcome it.

The Bantu conception of property was even less European than was their system of government. A chief's sovereignty was personal rather than territorial. Hence boundaries were more vague and undefined than in Europe. Nor was land a marketable commodity and

¹ See map at end.

transferable by contract. There was no right in it save user, and grazing land being communal was not subject to trespass. The absolute and individual ownership dear to a European must have appeared wholly unjustifiable and incomprehensible to the Xosas, who had hitherto had no reason to suppose that any other system than their own was possible.¹

These divergent conceptions of property were emphasized by a cruel stroke of fate that made both Europeans and Bantu cattle ranchers. Cattle, indeed, were more to the Bantu than to the colonists. Apart from being their invested wealth, they were in some mysterious way akin to the group that owned them. They were the centre of its life and governed village routine. They were the consideration giving validity to all social and contractual relations. No legal or religious matter could be completed without them. No civil action was of greater importance than one concerning a theft of cattle, and a well-developed system enabled the owner to follow the spoor of stolen stock wherever it led, the headman of each kraal on the way being bound to assist him. This 'spoor law' was applied by the Colonial Government to the cattle raiding that became endemic on the frontier. But it had to be adjusted to the circumstance that, when white men's cattle were in question, native public opinion was not on the side of the complainant and kraals were reluctant to co-operate. It therefore became less judicial and more punitive.²

In 1778 the Fish river had been declared to be the boundary of the colony; and, on the strength of a supposed acquiescence of some minor chiefs, its acceptance as the boundary by the Xosas had been assumed. But the Gunukwebes, a half Xosa and half Hottentot tribe owing

¹ Maclean, *A Compendium of Kaffir laws and customs; Report of the Commission on Native Laws and Customs*, Capetown, 1883, Appendix C. M. Hunter, *Reaction to Conquest*, pp. 112-17, 378-82.

² Audrey Richards, *Hunger and Work in a Savage Tribe*, pp. 94-5; Maclean, pp. 65-6; Macmillan, *Bantu, Boer, and Briton*, pp. 56-7; Walker, p. 189.

allegiance to Ndhlambi, were already established west of the river in what was known as the Zuurveld. There Maynier, after the third Kaffir war in 1793, had perforce to allow them to remain on condition of their behaving well and without prejudice to the ownership of the Europeans. Ten years later, in 1803, Commissary-General de Mist and Governor Janssens tried to persuade them to withdraw. They declared that they could not as they were at war with Gaika; but they undertook to keep the peace and to respect the property of the colonists.¹ They were, therefore, still in the Zuurveld when the Cape became British for the second time in 1806. But such a joint occupation of a borderland offended against the traditional British policy of separation between Europeans and Aborigines. It was also a source of friction between peoples of so widely differing customs; and in 1812, the year of the 'Black Circuit', in the fourth Kaffir war, Sir John Cradock established the boundary for the first time by driving the Ndhlambis over the Fish river and appropriating the whole of the Zuurveld.

Gaika's failure to implement the treaty of 1778, and his inability to control the Ndhlambis in 1803, were examples of the weakness of the Xosa political organization in European eyes. It lacked the central authority that was essential to the discussion of 'international subjects'.² Lord Charles Somerset, Cradock's successor, endeavoured to make good the deficiency by appointing Gaika to the office of paramount chief, in spite of his disclaiming any power over the Ndhlambi clans.³ The

¹ See 'Treaties entered into by the Governors of the Colony of the Cape of Good Hope and other British authorities with Native chieftains between 1803 and 1854.' All treaties mentioned in this chapter are included in this Cape Blue-book, which was reprinted as a British Parliamentary paper in February 1884.

² This is the term used in Lord Glenelg's dispatch of 26 Dec. 1835, 'in the absence of a more simple word'. K. N. Bell and W. B. Morell, *Select Documents on British Colonial Policy, 1830-60*, p. 474.

³ Thus Henry Cloete in the Legislative Council in 1836: 'It became essential, therefore, as any treaty with minor chiefs would be a dead letter, to look to some responsible person, and as Gaika was thus acknow-

result was a civil war. Ndhlambi and Hints'a, the chief of the Eastern or Galeka Xosas, combined in 1818 to defeat Gaika in the battle of Amalinde. Then, taking advantage of a withdrawal of troops from the border, the Ndhlambi clans started the fifth Kaffir war in 1819 by invading the Zuurveld. After they had been repulsed, Somerset, again through the medium of Gaika's supposed paramountcy,¹ turned the whole area between the Fish and the Keiskamma rivers into a neutral depopulated zone protected by military patrols.

At this time the whole of Bantu society was being revolutionized by the Zulu King Chaka. We allude later to the results as they affected the countries which became the Orange Free State, Natal and the Transvaal.² Here we need only note that they projected the Tembus and the Fingoes into the turmoil of the eastern frontier of Cape Colony. The Tembus were more nearly akin to the Xosas than were the Fingoes, for they claimed descent from a common ancestor. Like the Xosas, they had migrated from the north and they had occupied country to the east of the Kei. When pressure from Chaka pushed them westwards into the colony, the British Government took them under its protection. The Fingoes, being refugees from Natal and Zululand, were more alien to the Xosas, who treated them as inferiors before the British Government assumed responsibility for providing them with land. They soon earned a reputation for being the most capable of civilization of all the Bantu.

The neutral zone did not long remain either neutral or unoccupied. A slice of the north end was cut off and attached to the Somerset district of Cape Colony in 1825. At the same time the Xosas and the Gunukwebes re-entered it from the east. Then Sir Lowry Cole, who became Governor of the Cape in 1828, annexed most of

ledged as the head, and Lord Charles Somerset was assured that the petty chiefs who committed the depredations on the colony were in a state of insurrection against Gaika, he was recognized and treated with us as the principal chief.'

¹ *P.P. No. 538 of 1836, Questions 625, 627.*

² *Below, p. 231.*

the northern half and established the Kat River settlement for Hottentots in it. Soon afterwards a policy of white colonization was started in it. Thus the 'neutral zone' became in fact the 'ceded territory', as it had been in general estimation ever since its creation. At the same time the Ndhlambis were relieved of being subject to Gaika's paramountcy, and their independence of him was acknowledged.

These arrangements had none of the elements of permanency. All that they did was to shift the frontier a few miles eastward at the expense of the Xosas; and soon afterwards the sixth Kaffir war was begun by the Gaika clans under Macomo, and his half-brother Tyali, pouring into the colony in December 1834.

Sir Benjamin D'Urban was now Governor, and his instructions showed that the British Government was beginning to realize that it might be advisable to subsidize the border chiefs and to appoint 'prudent and intelligent men' to be resident agents with them. Unfortunately, D'Urban was a man with a large capacity for inaction, and during his first ten months of office before the outbreak of the war, he did no more than send an encouraging message to the chiefs through Dr. Philip.¹ A few weeks before he left Capetown for the border, he was still optimistic about the efficacy of appointing agents and concluding a 'political and commercial treaty' with the Xosas. But when at last he reached the frontier, on 20 January 1835, the havoc of the war changed his mind. The tragic losses of the white colonists emphasized the military aspect of the problem and caused him to seek a solution rather in the direction of a new and more defensive boundary than in administrative reforms.

He proposed, therefore, to drive all the offending Xosas across the Kei, and to make Hintsza their paramount chief. Accordingly, on the strength of a treaty made with Hintsza in April 1835, he issued a proclamation on 10 May—'in the presence of Hintsza, chief of the

¹ On D'Urban's delay in going to the frontier, see Macmillan, pp. 99-100.

country between the Kei and the Bashee, and styled and acknowledged by the Kaffirs, who have inhabited the country between the latter river and the colony, "Paramount Chief of Kaffirland", annexing all Gaika and Ndhlambi territory as far as the Kei river, and expelling from it all the clans that had made inroads into the colony.¹ But the Gaikas and the Ndhlambis refused to be moved across the Kei. They were not bound by any treaty made with Hintsa without their consent.² And in September D'Urban was obliged to amend his policy into one of modified assimilation to meet their objection. He now signed agreements 'with each chief personally present, and each individually and independently for himself and his own immediate family', by which the Gaikas and the Ndhlambis undertook to become British subjects and to submit to the laws of the colony. They were, however, to be allowed to administer their domestic affairs according to their customs, the criminal matters dealt with by British law being confined to treason, murder, rape, arson and theft. Witchcraft was forbidden. To each family was to be allotted 'a fair and adequate proportion of land, according to the amount of the population'; and a Resident Agent and English magistrates, wherever necessary, were to be appointed.

D'Urban's confidential notes on the future which he foresaw for the British Xosas show that his ideas were even more assimilative than would appear from the terms of the agreements. He wrote:

"They are the King's subjects; will speedily be arranged and classed under a known and certain census, distributed into family locations, under magistrates duly appointed by the Governor, subject to his authority, and to be dismissed, if failing in their duty, at his pleasure; the subordinates selected from their own body, and armed with legal powers for the fulfilment of their duties; the

¹ Memorandum for the guidance of Major Cox as to the general basis of terms which he is authorized to hold forth to the Kaffir chiefs suing for peace, dated 31 May 1835. *Public documents showing the character of Sir Benjamin D'Urban's Administration.*

² P.P. No. 538 of 1836, Questions 413-15.

superior and superintending ones English. Meanwhile their system of clanship, by this very arrangement, will be at once broken up, and its spirit and feeling will be rapidly subdued and forgotten, as the power of the chiefs shall be seen to have ceased and passed away, and the whole will be brought under the power of the general colonial laws, which will be of no difficult enforcement, since the military posts of occupation (the environs of which will soon become villages) are within, around, and among their locations; and the military power, therefore, is ever at hand to assist the civil, while the known presence and readiness of the former will duly prevent any attempts to resist the authority of the latter. Thus alone it must be, if by any means of human device or agency, that these savages are to be at length (at any rate the rising generation) assimilated with the mass of the colonists; admitting gradually by the power of legal coercion, judiciously put forth, the habits of civilization and industry, with the combined blessings of religion and morality; and these doubtless are the only probable means of converting a savage and vexatious enemy into peaceable and useful subjects.'

In another memorandum, written a fortnight later, he indicated what he thought would be the effect of the system on the position of the chiefs:

'The chiefs will at length find, before they are aware of it, their supreme power dissipated and divided, and themselves reduced to the more wholesome position of subordinate magistrates (or field-cornets) acting under prescribed rules and limits, and the subjection and superintendence of the due and salutary authority; and their tribes under the regular operation of the general laws. That this conclusion, however, should effectually work itself out, it is necessary that they be not startled at the outset, or their eyes opened to the future consequences of the process, until by its advancing force, when they do at length discover all its influence, they shall no longer have any power to be effectually restive.'¹

Here at last was something other than the negative policy of abstention. But no sooner had it been proposed than it was abandoned. Lord Glenelg had conscientious doubts, and on the strength of his dispatch of 26 Decem-

¹ Memoranda of 17 and 30 September 1835 in *Public Documents showing the character of Sir Benjamin D'Urban's Administration*.

ber 1835 the territory between the Kei and the Keiskamma was retroceded. The change was disastrous in every way. It gave the final impetus to the Great Trek, and so helped to extend the Native policy which it was its purpose to condemn. It put the clock back to 1829 after Cole's annexation of half the ceded territory.¹

The retrocession coincided with the publication of the report of the 1837 Parliamentary Select Committee on Aborigines in British Settlements. The members had been impressed by the evidence of William Shaw, the Wesleyan missionary to the Gunukwebes. His testimony of their good behaviour and progress under his tuition was highly encouraging, and was taken by the committee as proving that treaties and missionary influence would suffice to solve the Bantu problem.²

'In the feeling of the Christian chiefs that to destroy the bonds of union with Christian and civilized men is to replunge their people into barbarism, and to annul the advantages that they have learnt to prize, lies, we are convinced, the main security we have for peace and quietness on our border.'

Glenelg having already sent out instructions on the treaties that were to be negotiated with the Bantu, the Committee had only to approve of them. They required a separate treaty to be made with each chief, defining his boundaries and laying down rules governing mutual restitutions and redress of grievances between him and the colonists. The detention of offenders and the collecting of indemnities were to be left to the chiefs, 'and to them alone'. The Gunukwebe chief had already demonstrated that he could do it.³ No Europeans, other than missionaries and government agents, were to be allowed east of Keiskamma. Wounding or killing a Bantu was to be punished in the same manner as if the sufferer were one of Her Majesty's subjects, and the removal of any Native from colonial territory was to be

¹ For Glenelg's dispatch see Bell and Morell, especially p. 469.

² P.P. No. 425 of 1837, pp. 71-2, No. 538 of 1836. Shaw's third examination.

³ No. 538 of 1836, Question 634.

accomplished with no more violence than was 'strictly required by the necessity of the case'.

There was nothing radically new in these proposals. They were as old as the British Empire. But their form was less abstentionist than it had been in America in the previous century. They now contemplated civilizing the Bantu by missions, and appointing Resident Agents, albeit 'solely in a diplomatic capacity'. The so-called Stockenstrom treaties, which were negotiated under these instructions, and from which the last qualification is taken, left the Bantu at liberty to retain or adopt any law they chose, but were most elaborate and meticulous instruments on international relations. They attempted to cover all contingencies, to create machinery for the mutual protection of the boundary, to regulate the spoor law, and to provide for the punishment of offenders.¹ They failed because they put too much on the chiefs without giving them any support.

The seventh Kaffir war followed as a matter of course, and the blame for it was universally laid upon the Bantu. Grey, who had recently become Colonial Secretary, was of the opinion that 'the attack upon the colonists by their savage neighbours had been entirely unprovoked'.² Stockenstrom, the negotiator of the treaties, who gave evidence against the colonists before the 1837 Select Committee, now took command of the burgher forces, and, leading them across the Kei river, demanded satisfaction of Kreli, Hints'a's successor, for having permitted the border clans to make war on the colony. Kreli pointedly retorted to this revival of the paramountcy theory abandoned in Stockenstrom's own treaties, by asking how he could be held responsible for the actions of the border clans when the British Government had made separate treaties with them. Stockenstrom agreed to accept the explanation if Kreli, on being acknowledged paramount chief by the white people, would assume responsibility for all the

¹ Bell and Morell, pp. 477-85.

² Earl Grey, *The Colonial Administration of Lord John Russell's Administration*, ii. 198.

Xosas, and would admit the British Government's right to all land west of the Kei. To these terms Kreli assented, although he had no power to dispose of the land west of the Kei. The treaty, however, came to nothing because Sir Peregrine Maitland, D'Urban's successor, refused to ratify it.¹ He was a disciple of D'Urban's policy of undermining the authority of the chiefs between the Keiskamma and the Kei, replacing it by representatives of the British Government, and registering the Xosas individually as British subjects. By these means their objectionable customs would be forbidden, and justice would be administered to them by British magistrates, but without unnecessary interference in such equitable Kaffir laws and customs as concerned property.²

Grey also looked for a remedy of the frontier problem in the extension of British, as opposed to colonial, authority. He defined his position as follows:³

'experience having demonstrated the futility of treaties with the Kaffirs, no more were to be made; but that, as the only mode of providing for the future security of the colony, the tribes inhabiting the district between the Keiskamma and the Kei, who had made so unprovoked a war upon the colonists, must be deprived of their political independence, and the territory taken possession of on behalf of the Crown. It was not to be annexed to Cape Colony (which would imply extending over it the authority of the colonial laws, which are utterly unsuited to such a state of society), but was to be governed by British military officers, with the assistance of the chiefs themselves, whose authority was to be supported as far as possible. For the maintenance of British power a few commanding posts were to be garrisoned. . . . Security for person and property being thus maintained, every endeavour was to be made, with the assistance of the missionaries, to diffuse a knowledge of religion and the arts of civilized life.'

Maitland was at first in favour of turning Sandili, now chief of the Gaikas, out of the Amatola Mountains, as he

¹ Theal, 1834-54, pp. 279-81. ² P.P. No. 912 of 1847-8, p. 15.

³ Grey, *The Colonial Policy of Lord John Russell's Administration*, ii. 201-2. The sentence that is omitted referred to enrolling Kaffir troops under British officers, and employing them in the western districts of Cape Colony.

considered that the removal of him and his people from so defensible an area was essential to the safety of the colony. But he was dissuaded by Henry Calderwood, his principal missionary adviser on Xosa affairs. Calderwood realized that land was the real crux of the border problem. Writing in 1846 he declared that the Xosas were so sensitive on it that they neither could nor would consider any question calmly when land was concerned in it, and that, either by ignorance or design, they mixed up the land question with every other between them and the Government. And so, on Calderwood's recommendation, Sandili was allowed to remain in the location of his fathers.¹ No sooner was this decided than he gave cause for anxiety over an affair of fourteen goats stolen from a Fingo kraal on the Kat river, and Calderwood began to regret his advice to Maitland.² Sandili, however, submitted without trouble, and the Gaikas were still in the Amatolas when in December 1847 Sir Harry Smith, backed by Grey, took the further step of proclaiming the country between the Keiskamma and the Kei to be 'British Kaffraria'.

Sir Harry, being of an impetuous and emotional nature, believed in the efficacy of spectacular actions and he set about civilizing the Queen's new Xosa subjects with characteristic vehemence. At a famous meeting with twenty-one chiefs on 7 June 1848, when he blew up a wagon and indulged in other theatrical devices, he made the Xosas swear to obey the commands of the Great Queen through her Commissioners, to cease to believe in witchcraft, to prevent the violation of women, to abhor murder, to make their people honest and peaceable, to acknowledge that they held their lands of the Queen, to abolish the sin of buying wives, and to listen to the missionaries. When Sandili was asked to speak he did not allude to these beneficent reforms, but raised the land question, saying to Smith: 'All Gaika's children let them to-day be yours. I in person am in your hands. Your

¹ Macmillan, *Bantu, Boer, and Briton*, p. 254; Henry Calderwood, *Gaffres and Caffre Missions*, pp. 50, 170, 171.

² P.P. No. 912 of 1847-8, p. 85.

children require land as they are crowded.' He was told that Buku, a Galeka Xosa chief, descended from the right-hand wife of Kreli's grandfather, whose clan lived on both banks of the Kei, was to be moved across the river, and that the Gaikas would have all the land up to the Kei. To this Sandili replied: 'I do not know that country.' It was Galeka territory, and to give it to Sandili was robbing Peter to pay Paul. Moreover, moving Buku across the Kei only added to the difficulties with Kreli, who, in due course, inquired where his people were to go. Their country would be too small with the Buku crowded in on them, and across the Bashee river was all occupied by Tembus. He was informed that the Governor's word had gone forth and could not be altered.¹ Thereafter, at the annual meetings that Colonel Mackinnon, the Chief Commissioner of British Kaffraria, held with the chiefs under his control, the land question was always prominent. On 23 February 1849 both the Gaika and Ndlalambi chiefs stated that their countries were too small. To which Mackinnon replied 'by pointing out that the Commissioners had lately made a personal inspection of their respective districts for the purpose of taking the census, and that they did not confirm the statement'. At the third meeting, on 11 March 1850, the Gaika Chiefs brought forward the same complaint. This time Mackinnon pointed out that there was plenty of space provided the Xosas were equally distributed over the country, and that if any of those who were too much crowded would apply to him he would point out vacant ground to them.² From the European standpoint these replies were unanswerable. But the Xosas were incapable of regarding the land from the points of view either of the relative density of population per square mile or of the carrying capacity of an acre. They had inherited a more spacious conception of the purposes of land, and required time to adjust themselves to a narrower. In these circumstances the Gaikas were the most restive under Smith's

¹ *P.P.* No. 969 of 1847-8, pp. 50-9.

² No. 1288 of 1850, pp. 5-7, 33.

reforms, and the eighth Kaffir war had to be fought against them.

The influence of these events on Calderwood's opinions is worth noting. We have seen how he came to regret his advice to Maitland to allow the Gaikas to remain in the Amatolas. He now denied that crowding the Kaffirs into narrow spaces was the cause of their unrest. 'The grand cause', he now declared, was that they had never been effectually punished—there had never been a decisive result, a complete victory.¹ This was, of course, perfectly true. The Xosas had never been brought properly under control. The balance between them and the colonists on the land question could have been maintained only by 'a great paramount authority' having equal power over both. The British Government was unwilling to undertake the charge. Its guiding principles had been the unfettered responsibility of the chiefs and the maintenance of Bantu independence. It was too heavily committed elsewhere to face the 'serious dangers inseparable from an extension of Her Majesty's dominion in South Africa'. Moreover, at the period we have now reached, under the influence of the free trade movement, the desire to avoid all unremunerative expenditure dominated, even more than formerly, the humanitarian impulse. South Africa, too, except for the strategic position of Capetown, was an unattractive proposition. It seemed to promise unending demands upon the revenue and the military forces of the United Kingdom to no perceptible national advantage.²

In these circumstances the settlement after the eighth Kaffir war had again to be governed by considerations of border defence and the limitation of imperial responsibilities. It was carried through by Sir George Cathcart, Sir Harry Smith's successor, whose self-complacency was the least engaging of his qualities. His idea was to make British Kaffraria a buffer Native state under military control between the colony and the less manageable, because

¹ Calderwood, pp. 62-3.

² Advice of the Committee of the Privy Council for Trade and Plantations. See Egerton, *A Short History of British Colonial Policy*, p. 347.

independent, tribes beyond the Kei, leaving the chiefs to govern their people with as little interference as might be consistent with the maintenance of British, not colonial, sovereignty. The chiefs beyond the Kei were left even more to themselves. The treaty with Kreli merely defined his boundary and made him responsible for the actions of his people. At the same time it warned missionaries and traders that they could reside in the Transkei country only with Kreli's consent and on such terms as he chose to impose, the British Government being content to hold him responsible for their security. In order to make the boundary between the colony and the buffer state more secure, Sandili was ejected from the Amatolas and Macomo from his Waterkloof 'den' near Fort Beaufort.¹ They were then pardoned and allowed to settle in reserves in British Kaffraria 'further removed than formerly from the colonial border'. Here they were to live in true and faithful allegiance to the Queen, but otherwise managing their own affairs. At a conference held on 9 March 1853, when this settlement was proclaimed, Macomo was asked by the Governor to speak. Like Sandili in June 1848, he concentrated on the land question:

'This young man (Sandili) has erred, and has been punished, and has been forgiven, but the ground you have given him is too small. Toyise, who formerly occupied it, had but a small tribe. Sandili has a large one, which will not find room there. . . . When we are settled in the country allotted to us, Kreli, Toyise and Umhala will affect to be satisfied, but will regard us as intruders and this will cause constant heartburnings between us.'²

This was the position when Sir George Grey became High Commissioner and Governor in December 1854. He was not a man to be satisfied with so negative a plan. He was unable to reconcile treating Natives as British subjects in all matters affecting the property and persons of Europeans, while leaving them to follow their own

¹ Cory, v. 441.

² Toyise was a great-grandson of Rarabe. Umhala was a son of Ndhlambi.

barbarous customs in dealing with themselves. He was not of a temperament to be content with separatism and abstention, or with the 'military control and not colonization', which was Cathcart's watchword. For the same reason he objected to military punitive expeditions. The misdeeds of Her Majesty's subjects, whether black or white, were matters for the police. He believed also in the Jacobean theory that civilized nations were justified in taking possession of countries inhabited by savages, and that, 'when our fathers went to America and took possession of the mere hunting grounds of the Indians—of lands on which man had hitherto bestowed no labour—they only exercised a right which God has inseparably united with industry and knowledge'. Grey's policy, therefore, as it had been in New Zealand, was one of active intervention, not only in Kaffraria, but in all the Bantu territory between the river Kei and Natal.

'The plan I propose to pursue . . . is to attempt to gain an influence over all the tribes . . . by employing them upon public works, which will tend to open up their country; by establishing institutions for the education of their children, and the relief of their sick; by introducing among them institutions of a civil character suited to their present condition; and by these and other like means to attempt gradually to win them to civilization and Christianity, and thus to change by degrees our at present unconquered and apparently irreclaimable foes into friends who may have common interests with ourselves.'

He was so bold as to prophesy that within eight or ten years the grant of £40,000 a year, which he secured from the British Government, would no longer be required. Three years later he was less confident. He still had to ask for the full grant, and justified it as a small sum for a country whose population of 95,000 souls was composed 'of races most difficult to govern and control', while beyond the Kei, 'a mere stream passable at very many points', were several hundred thousand more.¹

¹ Sir George Grey's dispatches of 22 Dec. 1854 and 19 Jan. 1857; G. C. Henderson, *Sir George Grey*, pp. 38-9, 43, 47-8, 105; *The Atlantic and Slavery*, pp. 164-5; G. W. de Kiewiet, *British Colonial Policy and*

Grey was fully conversant with the underlying cause of Xosa unrest. In his dispatch of 22 December 1854 he made this clear enough:

'It should be remembered that the Gaika chiefs, instead of being required to retire across the Kei, as was originally contemplated, have been located upon its southern bank in the vicinity of their own country, the Amatolas, to which they must for ever be longing to return, although it is not considered prudent to permit them to do so; this must be to them a cause of constant uneasiness and annoyance. I also learn from the most authentic sources that experience shows that the country within which they are confined is not believed to be adequate to their wants; this must also be a source of constant discontent to themselves, and probably of apprehension to their neighbours, who must feel assured that, in some direction or the other, additional country must be found for the Gaikas, and will feel anxiety as to when and to what extent their own interests may suffer from this cause.'

He was warned by Calderwood that the Gaikas intended to get their country back.¹ Nevertheless, he drew the old conclusion that 'Kaffraria proper', that is to say Krel's country beyond the Kei, 'must be looked to as the outlet for the Gaika tribes', and he refused to discuss the land problem when he met Sandili and Macomo in February 1855. He had heard, he wrote to the Secretary of State, 'that on previous similar occasions, when Macomo had been spokesman on the subject of restoring their lands, that when their request had not been complied with, angry and rather unpleasant conversation had ensued'. To avoid this, and to make plain what his intentions were, he told them that, being a child in the country, he would receive no communication from them except in writing. 'This answer confused them very much as it was quite unexpected, and, after consultation, Sandili said they only begged me at least to hear what they had to say now, they would then write it down'. However, the Governor was not to be thus caught. 'These Natives are very subtle, and I feared they thought by prolonging the conversation

the South African Republics, 1848-72, p. 88; *Cambridge History of the British Empire*, vii, Part II, pp. 86-7. ¹ Dispatch of 30 Dec. 1854.

they would gradually draw me into a public argument. I thought also by hearing them I might lead them to indulge hopes which I could not fulfil.' And so he changed the subject to lung sickness and cattle, and 'a cheerful and merry conversation sprung up by leading them to thoughts agreeable to them'. He was satisfied by what occurred at this meeting, and by his personal observations of the Xosas, that 'a very few years of his policy would entirely settle the troublesome frontier problem'.¹

Grey's attitude was perfectly logical. He believed that backward peoples should not be left in occupation of large tracts of land which, on a European standard of carrying capacity, were capable of supporting a larger population per square mile. Bringing this truth home to the Xosas was the best method of civilizing them. British Kaffraria was fertile and capable of supporting a dense population. When the Xosas had learned to make better use of their land, there would be ample outlet for the Gaikas beyond the Kei. Nor was there any reason why British Kaffraria should not be at once filled up with a considerable number of Europeans. Their presence would help to make the Gaikas 'part of ourselves, with a common faith and common interests, useful servants, consumers of our goods, contributors to our revenue, in short, a source of strength and wealth to this colony, such as Providence designed them to be'. In the meantime, the reserves allotted to them were occupied only during the Government's pleasure, the Crown retaining the right to appropriate tracts four miles in diameter for forts, to proclaim roads four miles wide, and to issue licences to provide persons to quarry stone or cut timber on land occupied by the chiefs. Thus, as Grey declared, the Natives had no recognized right or interest in the soil. But, by degrees, after the Government had made good its hold over them, it might improve their tenure and give them a vested interest.²

¹ Dispatch of 14 Feb. 1855.

² Speech to Legislative Council, 15 March 1855; Dispatch of 18 Oct. 1856.

Grey's scheme for reforming the Xosa administration of justice was equally ambitious. He decided to pay the chiefs stipends equivalent to the revenues they had hitherto collected in cattle by fines and court fees, which would be diverted to the Government, and to give them the assistance of 'talented and honourable gentlemen' as magistrates, through whose influence European laws would imperceptibly replace barbarous customs. The loss of stock by lung sickness seemed to Grey 'a most favourable opening' for the reform, and he seized it with his usual impetuosity and confidence.¹

Neither the British Government nor Grey's principal advisers on Xosa affairs were as sanguine as he was. Lord John Russell pointed out that on the American frontier, where settlers had suffered from the depredations of the Indians, the land had been 'inundated and fertilized' by 'a great flood of American population'.² It was impossible to expect the same in South Africa. Colonel Maclean, the Chief Commissioner for British Kaffraria, commented that the Kaffirs were not 'a race by nature willing to be civilized', and that their 'general ideas, habits and polity' had not been broken down either by conquest or by 'the continual influx of a more civilized race'. They were not yet under sufficient control; and, although called British subjects, were not so in reality. The lung sickness had not depressed their 'tone and spirits' to the required level, nor was it a factor favourable to the Governor's plans. Maclean therefore urged that it was rash to embark hastily on wide measures of reform. His criticisms of Grey's judicial reforms were that the presence of a European magistrate would tend to undermine the hereditary position of the chief and reduce him in status to a mere headman; that depriving him of his perquisites in fines and court fees would be regarded as a seizure of the chieftainship and would encourage the suspicion, always present, that the reforms were intended, not for the

¹ Dispatch 18 Dec. 1855. The lung sickness was also an opportunity to convert the Xosas to agriculture. Dispatch of 19 July 1855.

² Dispatch of 3 June 1855.

benefit of the Xosas, but for their more effective subjection.¹ Moreover, they would be looked upon as a breach of Cathcart's undertaking at the close of the eighth Kaffir war that the chiefs would be left to govern their people in their own manner. But Grey was not to be deterred. He replied that so long as individuals were liable to be stripped of their property by a chief at a moment's notice they could never advance in civilization, and that the payment of fines to a chief was a usurpation of the prerogatives of the Crown and an incentive to false accusations. He admitted, however, that nothing could be done either abruptly or harshly.²

Maclean put the judicial reforms before a meeting of the Gaika chiefs, including Sandili and Macomo, in October 1855. They refused to commit themselves before they had consulted the Ndhlambis on a matter of such importance to the nation as a whole. Sandili, however, raised one point. According to Xosa law, the chief's sovereignty being personal rather than territorial, an injury done to one of his subjects was an injury done to him for which he should be compensated. This was the principle governing the distinction between civil and criminal actions. An injury done to an individual, as for example stealing his property, was a cause of civil action; an injury done to the interests of a chief was a crime.³ In the latter case, Sandili pointed out, the chief took the cattle of the guilty person; would they now, he asked, go to the Government? Maclean explained that only the Court fees would go to the Government; and, in regard to the fine, he appealed to Sandili's own feelings of justice—if a poor man were murdered, and his family left destitute, was it not just to give the offender's property to

¹ An example of this suspicion was when Sandili asked Charles Brownlee whether the object of the Government in making a watercourse in his location was to wean him from his old country. See *Report of Charles Brownlee*, 30 May 1855.

² Memorandum by Maclean dated 4 Aug. 1855, and Sir George Grey's reply of 17 Sept.

³ Maclean, *A Compendium of Kaffir Law and Custom*, pp. 34-5, 60-1.

the family rather than to the chief? To which Sandili replied: 'I do not wish to make an answer, but I understand the thing.' It was, in fact, a negation of the theory on which a chief's authority rested. As such it was welcome to Grey. He wished the chiefs to draw their authority, as well as their remuneration, from the Government, for without 'a complete change in the Kaffir system of government' . . . nothing could be expected but a constant succession of wars.¹

The chiefs accepted the salaries, relinquished the fines, and, having no further interest in criminal cases, left them to the magistrates, who judged them neither according to colonial law, which was not applicable, nor according to Xosa custom, which was not recognized, but according to their own discretion.²

While these reforms were being applied, Grey was given an opening to extend his policy of white settlement by a madness that overcame the Xosas in 1856. A Native seer, using his daughter as a medium, prophesied the destruction of the whites and the resurgence of the Xosas, if the latter killed all their cattle and destroyed all their grain. They followed his behest and the loss of life from the resultant famine, and the dispersion of many of the survivors, relieved Grey of any immediate fear of another border war and tempted him to begin establishing white settlers beyond the Kei. But his successor, Sir Philip Wodehouse, abandoned the idea. He conceived that it would in the end involve the Home Government in military expenditure. He therefore did not move Kreli across the Bashee, as Grey had intended, but allowed him to remain on the west side. But he allotted a large tract of Galeka country to Fingoes and Tembus whose locations in the colony were overcrowded. Theal asserts that this reversal of policy threw away 'one of the fairest opportunities for legitimate settlement of white people', with the result that the Cape Colony had to fight another Kaffir war, and was 'weakened for all time'. On the other hand, Charles

¹ Dispatches 19 July 1855, 18 Oct. 1856.

² Walker, p. 297, and Grey's dispatch of 14 July 1856.

Brownlee, who was Gaika Commissioner and afterwards Secretary for Native Affairs, was satisfied that Kreli would never have submitted to Grey's scheme without attempting to regain the forfeited country.¹ Who can doubt that Brownlee was right? As it was, the establishment of Tembus and Fingoes in Galeka country was a direct cause of the ninth and last of the Kaffir wars.

In their final defeat the Galekas lost nearly all their cattle and corn. They were dispersed amongst other tribes, and what had remained to them of their country was given to Gaikas. Their chief Kreli became an outlaw. Half the Gaikas having joined in the rebellion, their reserve in the Ciskei was taken from them and cut into up farms for white occupation, while the half of the tribe that had remained loyal were moved into the country from which the Galekas had been expelled. Their chief Sandili was killed in action. The Ndhlambis having taken part in the war suffered the fate of the Galekas, and their location was given to two Galeka chiefs who had asked for the Government's protection. Thus, after a century of border warfare, the colonial boundary had been moved from the Fish river to the Kei, and the Xosas had been dispersed. They had been uncomfortable neighbours; and their inability to accept and abide by accomplished facts caused even so sympathetic an observer as Charles Brownlee to regard them as aggressors after 1835.²

¹ Theal, *History of South Africa, 1854-72*, p. 270; Brownlee, *Reminiscences*, pp. 184-5.

² *Native Affairs Blue Books*, 1879, Appendix, pp. 1-2; 1875, p. 125.

CHAPTER III

THE NORTHERN BORDER. 1835-54

THE Bantu with whom the trekkers from Cape Colony came into contact north of the Orange and Vaal rivers had suffered from the general confusion caused by the Zulu king Chaka. Moselikatse with his Matabeles had decimated the Bakwenas in the Western Transvaal, and was afterwards driven across the Limpopo by the trekkers themselves. Queen Mnatatisi and her son Sikonyela, with a mixed horde of Batluoka and other clans, called the Mantatis, had ravaged the country of the Bataungs north of the Vet river, and had finally settled in its north-east corner. Moshesh, a Bakwena by birth, had collected scattered remnants of clans and had welded them into the Basuto nation. His country did not command the drifts over the Orange river. With one exception they all debouched into the territory of Adam Kok. His was a missionary-created community of Griquas, half-caste descendants of the Hottentots whom the Dutch had found inhabiting the hinterland of the Cape and whom white settlement had driven northward. We may here observe that the British Government, by recognizing the dominion of Adam Kok's people over the ground it agreed they should occupy, did in effect extend its own sovereignty for that special purpose, in despite of its declared determination to avoid any territorial expansion.

For some years before 1835 colonial cattle-farmers had been going north of the Orange river in search of grazing, and had hired land from the Griquas. The country had thus become an area of thinly populated joint occupation, the white colonists being anxious to maintain their official connexion with the colony and its Government.¹ But the Great Trek brought an influx of emigrants determined on independence, and forced the Government to take action. It had no treaty with Adam Kok. Nevertheless, it had

¹ *Eybers, Select Constitutional Documents*, p. 260.

made him a responsible local chief, and it was committed to supporting his authority. Moreover, the emigrants were still British subjects. They could not divest themselves of that privilege by the mere process of moving. Nor was the Government willing that they should. It relied on its legal claim to their allegiance for its right to interfere in their actions as they affected the Natives; and for this purpose the imperial parliament passed the Cape Punishments Act of 1836, which authorized the commissioning of magistrates outside British territory, and defined their jurisdiction. The Act did not derogate from the sovereign rights of the tribes in whose territory it was current, and the chiefs were its executive instruments in the absence of a magistrate. Adam Kok became one of them.

The trekkers who were anxious to be independent of Great Britain set up a republic of their own with its capital at Winburg in territory acquired by Hendrik Potgieter in a treaty with Makwana, a Bataung chief. Without any authority the chief ceded a large area between the Vet and the Vaal rivers in return for a promise of protection, a few head of stock, and a guarantee of a small Bataung reserve. Soon afterwards Piet Retief made treaties with Sikyonela and Moshesh. Faced with these developments the British Government would neither annex the country, nor acknowledge the independence of the emigrants and so give them authority over the Griquas. The only alternative was to give the Griquas authority over them, and so place them under native jurisdiction. The decision was the logical deduction from the Government's attitude towards the trek. The trekkers, having withdrawn from the colony against the Government's orders, must take the consequences.¹ If they chose to settle in native territory they must submit to native jurisdiction. Their presence must not diminish native rights. And so treaties were made with Kok and with Moshesh in 1843, giving them the

¹ 'Her Majesty's Government cannot be held responsible for the conduct or protection of such of her white subjects as think fit to migrate into the interior.'

status of allies of the colony, and requiring them to hand over criminals to it, to police its border and to co-operate in civilizing the adjacent tribes.

The futility of the arrangement was at once apparent when in 1844 Kok, acting under the treaty, arrested a Boer accused of murder and sent him to Colesberg for trial under the Punishments Act. Immediately the trekkers made an 'armed protest', and peace was only preserved by the Colesberg magistrate sending back the accused, and comforting Kok with a small supply of ammunition and a warning to be careful in handling his white subjects. Soon afterwards those emigrants who wished to maintain their British allegiance informed Kok that they also would not submit to his jurisdiction. At the same time Kok was disturbed by the Winburg Republic sending emissaries to tempt him from his British alliance. But he remained faithful to his treaty, being reassured by the Colesberg magistrate that he would be supported if attacked. Thus encouraged, although warned to be circumspect, he again asserted his authority by sending a hundred men to arrest one Krynow, who had had two natives flogged by one of the Winburg Republic's emissaries. In the hostilities that followed Kok received the British military support on which he had counted, and his rebellious white subjects were defeated at Zwartkopjes.

The plan of giving Kok jurisdiction over the trekkers could have had no other ending than their armed resistance. And yet Sir Peregrine Maitland, who came to the border in 1845 to give the problem his personal attention, was perforce obliged to endeavour to solve it 'without asserting British authority and without admitting the independence of the trekkers'. He took the only course open to him. He negotiated new treaties with Kok and Moshesh at a conference held at Touwfontein in June. He adopted the plan of territorial and judicial separation, subject to the 'absolute dominion of the native chief over all the land hitherto regarded as belonging to him and to his people' being unimpaired. Without prejudice to this right Kok undertook to divide his territory into two

portions. The one to be inalienable except for sites for mission stations or trading-posts. The other to be open for disposal 'to British subjects and all others indifferently', but only on leases limited to forty years, a sale of land being 'in direct opposition to the well-known laws and customs of the Griqua people'. These leased lands were to be subject to a quit-rent, half the proceeds of which was to be applied to defraying the cost of a British Resident. The duties of this official were to administer the Punishments Act, to exercise the same jurisdiction over British settlers as a Resident Magistrate of Cape Colony, to hear and decide 'according to right and justice' cases brought by Griquas against settlers, and to be present at the trial by Kok of cases brought by settlers against Griquas. All questions relating to titles to land, no matter by whom raised, were reserved to the Resident, Kok having the right to be present at the hearing. In a dispatch to the Secretary of State explaining and defending this singular arrangement, Maitland depicted its working in the following terms:¹

'And thus, while each tribe within itself is left to the undisturbed enjoyment of its own laws and customs, and the clusters of British subjects in their respective locations are also left to self-government, as being beyond British territory and British government, both parties, the moment they come into any kind of collision, find the British Magistrate, who is also by treaty the Chief's Magistrate for this purpose, standing as an authoritative judge between them to settle cases and do justice according to a code of law agreed on and defined in treaty between the Chief and the Colonial Government.'

This was as near annexation as could be without annexing.² It involved the appointment of a Resident Commissioner at Bloemfontein and the creation of the new imperial office of 'High Commissioner of the Territory adjacent to the Colony'. Maitland's successor in the Governorship was the first to receive this appointment, and

¹ Eybers, pp. 261-9; *Basutoland Records*, i. 97.

² Grey, *The Colonial Policy of Lord John Russell's Administration*, ii. 207.

his successor, Sir Harry Smith, used it in 1848 to proclaim the Queen's sovereignty between the Orange and Vaal rivers, as he had already proclaimed it between the Keiskamma and the Kei. He was impelled to do so by the complications of the Western Basutoland border. It was lined with a variety of migrant African communities all recently established, and with which Moshesh had land disputes as well as with the trekkers. The Barolongs, under chief Moroko and fathered by Wesleyan missionaries, had acquired from him a right to occupy land round Thaba Nchu on terms that were a fruitful cause of dispute. Near them were Carolus Baatje's Bastards at Platberg and Peter David's clan of Griquas at Lishuane, both in charge of the Wesleyan missionaries. North of them were some Bataungs under chief Molitsane who recognized Moshesh's paramountcy. Farther north were Bert Taai-bosch's Korannas who had also been settled by the Wesleyans. Next to them were the Batlokwas under Sikonyela whom Moshesh claimed as vassals.

The problem of the boundaries of these various communities and the definition of their status in relation to Moshesh were as complicated and embarrassing as any questions depending on African Native law and European policy could be. Maitland had declined to interfere in them and had relied on the Resident Commissioner at Bloemfontein to solve them. But he failed. And so Sir Harry Smith, realizing that he must supply 'the great and paramount authority' which he saw was necessary 'for the purpose of maintaining inviolate the hereditary rights of the chiefs and of effectually restraining the Boers within the limits and upon the locations they now possess',¹ or, in other words, to carry out the policy of the Maitland treaties, proclaimed the Queen's sovereignty. He made, however, one minor but significant concession to trekker sentiment by declaring that 'no person of colour is ever to be employed in conveying summonses, or in the execution of any point of law',² as, for example, removing a criminal for trial in Colesberg.

¹ Eybers, p. 269.

² Ibid., p. 274.

The Winburg Republicans protested against being made British subjects and took up arms. But Smith defeated them at Boomplats, and then promulgated a more elaborate constitution based on the differential treatment of Europeans and Natives. The authority of the Resident Commissioner over the tribes was confined to their 'international' affairs. The authority of the nominated council and the jurisdiction of the law courts were limited to the Europeans and did not extend to persons 'belonging to any tribe or people of any native chief or captain within the sovereignty'. In white territory Roman-Dutch law as administered in the courts of Cape Colony was to be current, but in native territory Bantu usages and customs, 'so long as they were not repugnant to decency, humanity, or natural justice' were to be in force. The disputed boundaries were left to be 'carefully ascertained and defined'.¹

They never were. How could they be in the circumstances of the frontier? The result was that the Basuto border became like the eastern frontier of the Cape Colony, an arena of cattle raiding, reprisals, fines, and punitive expeditions which baffled the British Government, and caused it to cancel its sovereignty and to acknowledge the independence of all the trekkers north of the Vaal in 1852, and north of the Orange river in 1854.

The retirement of the British Government also settled the fate of Adam Kok's Griqua community. The territorial segregation of white and black, which was the basis of the Maitland treaty, had not been maintained, and sales of the inalienable lands to Europeans had taken place. It was therefore decided, without Kok's consent, that 'every facility for such transactions' should be given in future.²

Seventeen years before the abandonment of the Orange River Sovereignty, the trekkers of the Winburg Republic had divided into two parties, the one under Piet Retief going into Natal, and the other under Hendrik Potgieter into the Transvaal. We will deal first with the former.

¹ Eybers, pp. 275-81.

² Kok's Griquas were moved to Griqualand East in 1863.

In order to acquire a right to settle in the land, Piet Retief entered into negotiations with Dingaan in Zululand, and from him secured a cession of all the country between the Tugela and the Umzimvubu rivers. Already four grants of parts of it had been made to Englishmen,¹ a prolificity of donation that was in keeping with Bantu conceptions of landownership. Making grants to a few immigrants established on the coast was different, however, to ceding a much larger area to a more numerous body travelling overland. The latter naturally aroused Dingaan's suspicions more than the former, and, so soon as the consideration for the cession had been delivered to him, he attempted to rid his country of them by massacre. His defeat at Blood river by Andries Pretorius, Retief's successor, put the trekkers in the position of conquerors; and their status was still further strengthened after they had aided Mpanda in replacing Dingaan as Chief of the Zulus. As recompense he had to acknowledge the trekkers' sovereignty over his whole country as far north as the Umfulosi.²

The trekkers now established a capital at Pietermaritzburg and adopted a constitution. Being even more suspicious of executives than were the frontiersmen in America, they concentrated all authority in an Assembly or 'Raad', making it their central judiciary, executive, and legislature.³ They had no desire to interfere in the internal administration of Native areas. They had no plans of Native amelioration. They adhered to the British frontier policy of separation, the Tugela taking the place of the Fish or the Keiskamma rivers in dividing them from Bantu territory.

The plan broke down because all the land south of the Tugela, unlike Cape Colony, was Bantu territory for which there were Bantu claimants. Hence the trekkers

¹ Farewell in 1824, Fynn in 1825, Isaacs in 1828, and Gardiner's treaty in 1835. G. Mackeurtan, *The Cradle Days of Natal*, pp. 106-7, 133, 145, 217; Eybers, p. 143. ² J. Bird, *Annals of Natal*, i. 237, 592.

³ Bird, i. 525-30; E. A. Walker, *A History of South Africa*, pp. 211-12, 217.

were faced with a Native problem which they would have preferred to avoid. It upset their separation of European from Native territory. They determined therefore to restore the division by removing all the Natives to a reserve on the coast between the Umtamvuna and Umzimvubu rivers. Here they were to live under laws and regulations made by the Raad, and under a Chief Captain or Resident Commissioner appointed by it.¹ The carrying out of the policy was entrusted to the Commandant-General who was the republic's executive officer in Native affairs. He was ordered first to use persuasion with the chiefs and headmen, and, not until this had failed, to employ as small a force as was consistent with the object in view. But the plan was never executed. The site for the reserve was in country claimed by the Pondo chief Faku, and the Raad's omission to obtain his consent was regarded by the British Government 'as a most unjust proceeding', and caused it to occupy Port Natal for the second time.²

Meanwhile the Raad had adopted an alternative scheme. It was to collect the Natives into locations within the European territory, and to forbid any Native to squat on European land without the owner's consent. Every Native employed by a farmer was to carry a pass giving his name, age, distinguishing marks, the number of his family, and his place of residence. He was to be bound to his master for two years. Thus the principle of separation would be maintained, though in a modified form; and it was accentuated in August 1840 by another regulation limiting to five the number of Native families a householder could retain. In these regulations we have the essence of the policy which was established in the Boer Republics south of the Limpopo, in contrast to the Cape policy south of the Orange river.³ Both drew

¹ Bird, i. 644-5.

² Theal, *History of South Africa, 1834-54*, pp. 329-30; Bird, i. 659. The first official British occupation of Port Natal was from Dec. 1838 to Dec. 1839.

³ J. A. I. Agar-Hamilton, *The Native Policy of the Voortrekkers* pp. 43-4; Bird, ii. 282.

boundary lines between black and white areas, but whereas Cape Colony established an assimilative administration in its Native territories, and admitted all coloured people to legal and political equality in white territory, the Republics abstained from active development of Native life and debarred all coloured people from equality in church and state.

The incursion of the British Government into Natal added that country for a short time to the arena of conflict between these two opposing policies. Sir George Napier on 12 May 1843 issued a proclamation setting out the terms on which the trekkers would be received back under British protection. The sixth was that

‘There shall not in the eye of the law be any distinction of persons or disqualification, founded on mere distinction of colour, origin, language or creed; but that the protection of the law, in letter and in substance, shall be extended impartially to all alike.’

On the Raad requiring some declaratory explanation of the clause, it was informed that ‘nothing but an express and unqualified acceptance of it’ would suffice.¹

The Raad submitted; but conceived a plan of evading the implications of political equality by praying that the qualification for the franchise should be the possession of property in houses and lands of at least £500.² This might exclude some whites, but it would certainly exclude all blacks. In his reply, Lord Stanley couched his refusal in the same language as he had employed to the Cape petitioners in 1842:³

‘The population widely scattered consists of a great variety of races of different degrees of intelligence and civilization, and influenced by very different views and habits—English, Dutch, Kaffirs, and no inconsiderable number of Zulus and others—who are either natives of the soil or who have fled from the tyranny of the neighbouring chiefs to the comparative security of a district placed, however imperfectly, under British protection. It does not appear to us possible in such a community so circumstanced to frame a local government which should fairly represent the interests of all these various and often conflicting parties, do impartial justice

¹ Bird, ii. 166, 259.

² Eybers, p. 175.

³ Bird, ii. 380.

between them, and be competent to undertake and carry on the business of legislation, in reference not only to the domestic but to the external affairs of the colony.'

Thus was Natal added to the British Empire. It was placed under the Cape legislature and administered by imported executive officials—the very form of government the trekkers had left the Cape to avoid. They saw no chance of residing in Natal with security,¹ and, setting out again on their travels, rejoined their comrades north of the Vaal and Orange rivers whose actions under Potgieter we must now relate.

When Piet Retief branched off to Natal, Potgieter went north across the Vaal. Here he established a claim to the country by driving the Matabele across the Limpopo, and by receiving from Bakwena chiefs, whose people he released from the domination of Moselikatse, acknowledgement of his rights as conqueror.² A capital was established at Potchefstroom and a document composed of thirty-three articles became the basis of government. It established a Volksraad from which all half-castes to the tenth degree were excluded. It required that 'every master shall have the right to keep his servants under proper discipline' without ill treating them. It prohibited Natives settling near European habitations. It authorized Commandants to set aside lands for their occupation where necessary, and conditionally on their good behaviour.³ As in Natal, it made their management a branch of the defence organization placing it in the hands of the Commandants-General and the Field-cornets. The instructions issued to the latter embodied the republican Native policy. They dealt with the Natives under two categories—those who were subject to Native captains, and those who were not. The former could not leave the place assigned to them without a pass issued by the local field-cornet. Nor could

¹ P.R.O. CO/179/6. Letter from A. W. J. Pretorius to Natal Land Commission, 1848.

² J. A. I. Agar-Hamilton, *The Native Policy of the Voortrekkers*, pp. 51-2.

³ 'The Thirty-three Articles, 1844. Articles 29 and 33; Volksraad Resolution of 28 Nov. 1853.

any person treat with a captain for the hire of servants without the knowledge of the field-cornet. Land assigned to captains did not become their property. Its control and ownership remained vested in the state, which undertook to secure the Natives in undisturbed enjoyment of it subject to the laws of the land. Every coloured person who was not under a captain, and who was not in the service of a European, was required to report to a field-cornet within three days in order that he might be placed in service. Failure to do so rendered the offender liable to twenty-five lashes if a man, and to imprisonment if a woman. Field-cornets were empowered to arrest vagrants without warrant. Masters were ordered to feed, treat, and pay their servants well, and were forbidden to give them liquor.¹ A servant could complain of ill-treatment, and his master was liable to a penalty if convicted. On the other hand, if the complaint were found to be groundless, the servant could be awarded such corporal punishment as would deter him from repeating the accusation. All hiring of servants had to be done through the field-cornets and on a prescribed form; and the number of resident families a proprietor could have on his property was limited to four.² The field-cornets were required to take a periodical census of occupied huts and of coloured people liable to service.³ The upshot of these instructions was that a Native who was not under a captain had to be in the employment of a white, and only Natives who were in such service and who were distributed between employers could reside outside land assigned to Native captains. This was the position when in 1852 the British Government acceded to the independence of the Transvaal by a complete withdrawal of British interest, with no reservation of any kind of Native rights.⁴

¹ In 1870 was added 'except on an order from their masters'.

² Afterwards increased to five.

³ *Instructions to Field-cornets*, pp. 19, 37-58. They were issued first in 1849 and re-enacted in 1858. Eybers, pp. 410-16. They were published in London in full, with an English translation in 1879.

⁴ Eybers, pp. 358-9.

Another Native policy, differing from both the Transvaal and the Cape policies, was evolved in Natal under British rule. Its creator was Theophilus Shepstone, whose early experience had been gained amongst the Xosas. He had watched the efforts of the British Government to combine separatism for Bantu outside the colonial border and integration for those within it. His principle was to apply separatism to the latter as well as to the former, and so to create a distinct Native administration within the colony. A necessary preliminary was the concentration of as many of the colony Natives as possible in reserves; and this was accomplished after a commission in 1846-7 had set aside for them 1,168,000 acres, divided into seven locations.¹

The plan as carried out was contrary to Lord Grey's views. He favoured the locations being more intermixed with the white settlements, and also being small enough to make it impossible for the inmates to live only as pastoralists. They should be made to realize that regular industry was necessary, and should be encouraged to benefit by the example and instruction of the farmers for whom they worked. Colonial opinion agreed with Grey that the reserves were too large—five locations of fifty thousand acres each would be ample to accommodate those Natives who had a claim to domicile within white territory. But it disagreed with his plan of mixing reserves with white settlement as reservoirs of Native labour. It preferred the more wholesale segregation of removing the surplus Native population to the territory between the Umzimkulu and Umzimvubu rivers, there to be administered under British law.²

Shepstone also came to favour a more radical separatism than that provided by the locations. He proposed that an independent Native state should be established between

¹ Pine's dispatch of 1 Nov. 1851, No. 1697 of 1852-3, p. 22. Also his dispatch of 29 May 1854. P.R.O. CO/179/35.

² Grey's dispatch of 30 Nov. 1849; P.R.O. CO/179/6. Minutes of Natal Land Commission, Memoranda by Boshof and Zietsman; Natal Native Commission of 1852-3.

the Umzimkulu and Umzimvubu, under British protection, and with himself as Governor in the guise of a Consular agent. Sir Benjamin Pine, who became Lieutenant-Governor of Natal in April 1850, and retained the office until March 1855, when he left to go to the Gold Coast, agreed with Grey that the locations should be smaller and that whites should be interposed between them. He accepted Shepstone's plan for the removal of the surplus Native population. But he also urged that the Natives who remained in white territory should be encouraged to acquire freehold and individual tenure, as an essential step towards their civilization. The chiefs also should be turned into inferior magistrates, sitting in sessions with their white colleagues, while their people should be induced to enter the service of the whites, to wear clothes and to frequent hospitals and schools,¹ a policy resembling that which he afterwards advocated for the Gold Coast. A third opinion was advanced by C. M. Owen, one of the two commissioners whom the British Government had sent out to inquire into the affairs of the Orange River Sovereignty. He came to Natal and agreed with Shepstone's removal plan. Beyond this, he more particularly favoured encouraging white settlement, increasing the hut tax of 7s. in order to bring pressure on the Natives to bestir themselves, and making clear that no measure of self-government was possible in the circumstances of Natal.²

The minute which Merivale wrote on these three documents shows how perplexing the problem was. He was not attracted by the proposal to remove 50,000 Natives, although Pine, Shepstone and Owen were all agreed in supporting it. A better plan 'would be to attempt the real government of these people in Natal'. But this was hopeless without stronger civil and, especially, military forces, which considerations of expense made impossible. 'To weaken those whom we cannot manage may therefore be good policy.' On the other hand, Shepstone's request

¹ Pine's dispatch of 12 Mar. 1854.

² P.P. No. 1292 of 1850, pp. 56-7.

that the new Native state should be under British protection must be refused,—‘it is better to bear the evil we have than to incur new ones’. Whenever white population multiplies, the new state will be sure to be annexed. ‘Until then I would in no way meddle with it.’ If Shepstone agreed to these terms his scheme might be tried.¹ Pine’s suggestions, so Merivale considered, were based on his impression that the proper management of the Natives is not to isolate them but to amalgamate with them. This was being successfully accomplished in New Zealand, but the circumstances there were not the same as in Natal. Owen’s proposal Merivale dismissed as ‘not very practical’. ‘It is disheartening’, he then declared, ‘to be able to offer little but criticism on the plans of these able men—but in the anomalous condition presented by a community of 5 or 6,000 whites, with little prospect of increase and confronted with 120,000 all but independent savages, I see little to be done but maintain, as well as we may, the existing state of things and trust to the development of a better one.’ Merivale then sketched out a policy including the maintenance of the military force, the denial of self-government, Shepstone’s removal plan, subject to the government being in no way involved, the gradual break-up of the reserves, but without any pressure to hasten it, the assimilation of the Natives remaining in Natal, as suggested by Pine, and the investing of chiefs with magisterial authority. But all this, he concluded, ‘is dependent upon a sufficient military force’. If that cannot be provided, he is inclined to believe that something like the Orange river policy is the next best thing—‘not, indeed, abandonment of sovereignty, but reduction of forces to a mere detachment, which will drive the Europeans into self-defence to be accompanied by self-government, and that they should be left to manage their own affairs and to control or to negotiate with the Natives as best they may’.²

¹ These terms would not, of course, have been acceptable to Shepstone. Moreover, the Duke of Newcastle refused to sanction the removal.

² P.R.O. CO/179/35.

This is, in effect, what happened; and, thanks to the genius of Shepstone, it was the best solution. Without the civil and military reinforcement which Merivale considered essential if the real government of the Natives in Natal were to be undertaken, Shepstone brought them under control and began to adjust their customs to the new circumstances. We need deal with only two points in his policy—the administration of justice and the franchise.

The Natives of Natal as British subjects were amenable to Roman-Dutch law which had been applied to the new territory in 1845. But the Commission for demarcating the reserves drew attention to its inapplicability to the Bantus in their present state, and recommended that they should remain subject to their own customs, until by degrees they could with advantage be made subject to British law.¹ Shepstone, like Maclean on the Gold Coast, followed the first half of this advice but not the second. He ignored Roman-Dutch law and maintained Native law under the authority of the Lieutenant-Governor as Supreme Chief. The position was not legalized until 1849, when an ordinance was passed for the administration of justice among Natives. Under it the Lieutenant-Governor of Natal, as the Paramount Chief, took power (1) to appoint persons to administer justice according to Native law, (2) to pay into the treasury all fines and forfeitures which formerly would have accrued to the paramount chief, (3) to act with the advice of his Executive Council, as a Court of Appeal in all Native cases, and (4) to reserve to the colonial courts all crimes repugnant to the general principles of humanity committed against persons or property.²

It was in connexion with this last provision that Shepstone issued his famous proclamation adjusting the penalty for murder to British conceptions of what was right:

'Hear ye and listen with both ears. Whereas from your youth up you have been taught to consider a man's life to be the property

¹ *P.P.* 980 of 1848, p. 133.

² *Ordinance 3 of 1849.* See Pine's dispatch of 29 May 1854.

of the Supreme Chief, and that it is unlawful to destroy such life without his consent; and whereas the Supreme Chief in this District is the Lieutenant-Governor, representing the Queen of England; and whereas several lives have been destroyed without trial, and without his knowledge or consent: Know ye, therefore, all Chiefs, Petty Chieftains, Heads of Kraals, and Common People, a man's life has no price; no cattle can pay for it. He who intentionally kills another, whether for witchcraft or otherwise, shall die himself; and whether he be a Chief, a Petty Chieftain, or Head of a Kraal, who kills another, he shall follow his murdered brother; his children shall be fatherless and his wives widows, and his cattle and all other property shall become forfeited.'

It is interesting to compare Shepstone's and Sir George Grey's methods of introducing this reform. Shepstone recommended it to the Zulus as the will of their Supreme Chief who now required some other penalty than the payment of a few head of cattle for the loss of his property by murder.¹ Grey imposed it on the Xosas as the decree of an alien government. So also did Shepstone convert the chiefs into officers administering a recognized Native law under the Supreme Chief, while Grey, believing in the necessity of 'a complete change in the Kaffir system of government', ignored the chiefs and left the administration of Native justice to the discretion of his magistrates.

The separation of Europeans and Bantu in Natal was not expected to be absolute. It was foreseen that individual Natives might assimilate western civilization and desire to submit to its laws, and a system of exemption from Native law was arranged for them.² But the formalities surrounding it were more deterrent than encouraging, and no applications were received before 1876, and very few afterwards.³ Those who were exempted did not thereby acquire all the privileges of white citizenship. They were, for example, still debarred from the franchise unless they went through a further complicated process of petitioning.

¹ E. H. Brookes, *The History of Native Policy in South Africa*, 2nd ed., p. 52.

² Laws 11 of 1864, 28 of 1865.

³ P.P. 292 of 1881. Dispatch from Colley of 16 July 1880.

Natal was granted a legislative representative council in 1856, with manhood suffrage subject to the possession of immovable property of the value of £50, or of a leasehold of not less than £10 a year.¹ There was no colour bar; but in a country which had been but recently settled, which contained no mixed population, and where the Native land-owning customs had not been disturbed, these qualifications sufficed to ensure a purely white electorate. Their efficacy would, however, be diminished, and the Natal franchise would become as colour blind as the Cape franchise, if Native land tenure in the reserves were Europeanized; and there was a concensus of opinion that a change of this description was essential to the Natives' welfare. On the other hand, giving them unfettered titles would deprive them of their security against the competition of white landowners. The 'uncertain footing' on which they held their lands was one of Shepstone's reasons for advocating moving them south of the Umzimkulu, where they would be less liable to white incursion. When the move was vetoed, he adopted the plan of vesting the reserves in the hands of trustees, who, Lieutenant-Governor Scott informed the Secretary of State, would divide them into tribal sections and when practicable into family holdings 'as small as the physical features of the country would permit', the terms of occupation being such as to put the holders 'on the same footing as civilized colonists'. The British Government was of the same opinion. The Duke of Newcastle wrote that the retention of the tribal titles should be only provisional and should last no longer than was necessary.²

The Natal Legislative Council was equally anxious to introduce individual tenure. One of its reasons for objecting to the vesting of the reserves in trustees was that it might delay the reform. But, as Shepstone pointed out,

¹ Eybers, pp. 188-94. The Natal Constitution.

² P.P. No. 293 of 1862, Scott's letter to Newcastle of October 1860 and his dispatch of 21 Sept. 1861 with enclosures; Newcastle's dispatch of 4 Feb. 1862. The Natal Native Trust was constituted by Letters Patent, 27 Apr. 1864.

the Council had overlooked that the holders of individual titles would be qualified to be voters and so might eventually control the legislature. The difficulty was overcome by a precautionary law of 1865 forbidding the registration of any Native as a voter until he had produced a certificate of his fitness signed by three electors of European origin and endorsed by a Resident Magistrate or a Justice of the Peace. His application might then be published in the Gazette so that any one could object to it, and finally it could be granted or refused by the Governor at his discretion.¹ Behind this triple barrier of formal defences the political supremacy of the whites has ever since remained inviolate.

¹ Eybers, pp. 194-7.

CHAPTER IV

DISUNION. 1854-1909

1. *Cape Colony*

THE British Government did not diminish its South African responsibilities by acceding to the independence of the Orange Free State and of the Transvaal, for the South African Native problem was indivisible. The western border of Basutoland was a prolongation of the eastern border of Cape Colony, and the troubles between the Free State and Moshesh could not be ignored by a government interested in the territory lying to the east of the Kei. Basutoland also commanded the overland communications between Cape Colony and Natal, while the situation of Natal in relation to Zululand made it impossible for the British Government not to be interested in the policy of the Transvaal. Moreover, at this time, the two Boer Republics could hardly be classed as states at all. Their governments were weakened by internal dissensions, their social organization was elementary and their populations and financial resources were inadequate to control the areas they occupied.

In these circumstances the division of South Africa into several independent states led to counter movements to bring about a greater concentration. Sir George Grey aspired to federate all under the British flag, with a central authority having a status analogous to that of a twentieth-century British Dominion. The British Government was not willing to go so far. It would not even listen to suggestions of reunion with the Orange Free State, declining to become responsible for the defence of that country against the Basutos.¹ It reluctantly annexed Basutoland in 1868, but only to save the people from dispersion. It was equally unwilling to countenance a union between the two Boer Republics. But it favoured a unification of

¹ de Kiewiet, *British Colonial Policy*, p. 127.

British possessions. The policy of 'driving the European into self-defence, accompanied by self-government' was as applicable to Cape Colony as to Natal. But it meant that the colonists must become responsible for British Kaffraria and Basutoland. Hence the Cape was made to incorporate the former in 1866 and the latter in 1871. In the following year the colony was given responsible government.

In one respect the Native problem of Cape Colony appeared to be more complicated at the beginning than were the parallel problems of Natal and of the United States. In both the two last the coloured people were more or less on the same level to start with. The great majority of the Negroes of the Southern States were emancipated in a block, the contact of the Bantu of Natal with Europeans was too recent to have introduced unaccustomed inequalities amongst them. Both American Negroes and Natal Bantu might therefore be treated by the whites as distinct classes. In Cape Colony, on the other hand, there seemed to be three grades of coloured people. The highest were the Cape Coloured descendants of the Hottentots, who were already legally and politically assimilated to the Europeans. In the second grade were the Fingoes. They were considered superior to, and were therefore differentiated from, the 'Red Kaffirs' or Xosas. They were said to be more docile and more 'conscious of their personal independence'.¹ Calderwood, it was claimed, had proved their higher capacity for civilization by collecting them into villages and by giving them individual allotments subject to a small quit-rent. Like the Tlascaltecs in Mexico, they were planted as civilizing agents among their more backward brethren across the Kei and so were moved eastwards.² At the same time the Kaffirs were moving westwards in large numbers. After the cattle killing of 1856-7 about thirty thousand entered

¹ *Cape Native Affairs Report*, 1875, p. 41; 1877, p. 131. See also Shepstone's evidence, 1883 Commission.

² *The Atlantic and Slavery*, p. 107; *Native Affairs Report*, 1883, p. 17, 1885, p. 77.

the colony. It was their only alternative to starvation. Pressure on the land was another cause of the movement, and the official remedy was to encourage the landless to go out and work. Kreli was so advised when he complained in 1875 that his people were overcrowded. Two years later the Civil Commissioner of Kingwilliamstown drew attention to the over-crowding in his district which 'was admitted on all sides'. Five years later the Civil Commissioner of Queenstown remarked on the Natives being much more crowded than he remembered in the twenty-five years of his experience.¹ Hence the three grades became increasingly intermixed. Nevertheless the policy of distinguishing between Fingoes and Kaffirs was continued.

The movement of labour from Native territory into the Colony had been subject to a pass law since 1828.² It was now brought under fresh legislation:³ and at the same time the opportunity was taken to legalize the issue of 'certificates of citizenship' to Fingoes in order to 'protect them from being mistaken for Kaffirs and thereby aggrieved'.⁴ The Tembus, who were located in the colony, not yet being 'in such a social state as to be capable of being relieved of restrictions', were bracketed with the Kaffirs. The plan did not work satisfactorily because the supposed differences were more accidental than inherent. The two peoples had had widely divergent experiences of European contact. The Fingoes had been bundled out of Natal by Chaka and had been rescued and revived by the British; the relations of the Xosas with the whites had been consistently bellicose. The Fingoes had been given land of which the Xosas were deprived. The Fingoes

¹ *Ibid.*, 1875, pp. 35-6, 1877, pp. 111-14, 1883, pp. 13, 54.

² Ordinance 49 of 1828. See Macmillan, *Bantu, Boer, and Briton*, pp. 66-7.

³ Act 23 of 1857. The following are figures of passes issued in Fingoland: 1875, 5,074; 1876, 6,896; 1877, 3,475. The estimate of wages returning in 1876 was £30,000.

⁴ Acts 24 of 1857, 17 of 1864. The certificate protected the owner from being 'obstructed or impeded by any person upon the ground or supposition that he is a Kaffir without a pass'.

were more agricultural and less pastoral than the Xosas, and, therefore, apparently more progressive. But as they regained their self-confidence so did they lose some of their docility. 'You have in them', the Special Magistrate of Kingwilliamstown wrote in 1883, 'a people united as a tribe, strong in numbers, and generally accustomed to the use of arms, and only requiring a great chief to make them formidable'. The 'certificate of citizenship' was no criterion of good behaviour. It was often issued indiscriminately, and yet it gave the holder a freedom of movement which was described by the Chief Magistrate of Tembuland as 'a curse to the country'.¹ Meanwhile the threat from the Kaffirs was manifestly less. Whereas in 1855 the whole country from the Keiskamma was in the hands of warlike tribes under powerful chiefs, while ten British regiments were posted on the frontier, now Xosa society was rapidly disintegrating.² It is not surprising that in these circumstances the attempt at classification fell into disuse. The pass system was displaced by a Vagrancy Law authorizing occupiers of land to take idle or disorderly persons before the nearest magistrate, and, although passes were still necessary for Natives entering the colony from the Transkei, the enforcement of the regulation was desultory.³

The disintegration of Native society made the adoption of some alternative social organization essential. Contemporary opinion was satisfied that it must be based on individual property, and Calderwood's plan for introducing this still held the field unchallenged. In accordance with it locations were divided into town lots, agricultural lots, and a commonage, with white superintendents to settle disputes not requiring the intervention of a magistrate, and Native headmen to act as field-cornets.⁴ Group-

¹ *Native Affairs Reports*, 1874, pp. 11-16, 1875, p. 51, 1877, p. 188, 1883, p. 91.

² *Ibid.*, 1883, p. 139.

³ Acts 23 of 1879, 27 of 1889.

⁴ *P.P. 1288 of 1850*, pp. 2-4. *Regulations and Instructions of Superintendents*.

ing in villages was important, for, as the Secretary of Native Affairs explained in 1879, 'there cannot be progress if there are no towns'.¹ The plan was not welcome either to the Fingoes or the Kaffirs. The former objected to being thus regimented and complained against being, as they expressed it, reduced all to one level. They refused to vacate ground they were already cultivating and which they regarded as their property, in order to be permanently established somewhere else.² They preferred their system of shifting culture. Even Calderwood failed to persuade many of the Fingoes to agree; and the Xosas were still more obdurate.³ They much preferred their tribal tenure. Moreover the surveyors who marked out the locations were not as good judges of the best lands for agriculture as were the Fingoes, and usually set aside the area most convenient for the survey. Added to this the cost of the survey, which had to be borne by the settlers, was heavy, while the formalities governing the transfer of plots included a legal deed, often costing more than the value of the land, and were such as no uneducated Bantu was capable of fulfilling.⁴

These, and the absence of any protection against the sale of plots in execution for debt, were the chief weaknesses of the scheme. They resulted in the great majority

¹ *Native Affairs Report*, 1879, p. 9, cf. the Spanish Pueblos. *The Atlantic and Slavery*, p. 119.

² *Native Affairs Reports*, 1878, p. 47, 1881, pp. 38, 39, 48, 117. The following is an example of the way a location was subdivided:

| | | | | |
|----------------------------------|---|---|---|--------|
| Number of grantees of land | · | · | · | 1,779 |
| Town and garden lots for schools | · | · | · | 16 |
| Double lots for headmen | · | · | · | 19 |
| Farm grants to chiefs | · | · | · | 4 |
| Mission glebes | · | · | · | 2 |
| Villages | · | · | · | 99 |
| Town lots | · | · | · | 1,814 |
| Agricultural lots | · | · | · | 1,814 |
| Acres to be cultivated | · | · | · | 10,884 |
| Size of location in acres | · | · | · | 60,000 |

³ *Ibid.*, 1883, pp. 52, 129.

⁴ *Ibid.*, 1879, p. 182, 1880, p. 172; UG 42 of 1922, p. 1.

of the plots being occupied by unregistered holders,¹ and in quit-rents being heavily in arrears.

The surveyed locations were not the only opportunities the Natives had of acquiring landed interests in European territory. Nothing prevented them purchasing or leasing ground in competition with the colonists, and the fact that the highest bid was accepted regardless of colour was noted as a mark of the Government's impartiality.² Amongst others, it is interesting to note that Tini, son of Macomo, with inherited persistency bought a farm in the Waterkloof near Fort Beaufort from which his father had been expelled in the eighth Kaffir war, and where he himself was in due course arrested in the ninth.³ The white colonists also settled Natives on farms either as labour tenants or as metayers, or simply as squatters at nominal rents. The Government was soon obliged to legislate on the subject; but not until 1884 was it brought effectively under control by a licensing system.⁴

The rise of a Bantu landed interest naturally affected the parliamentary franchise. According to one opinion seven hundred Fingoes in Victoria East possessed the necessary qualification in 1873. When two hundred and eighty applied for registration, however, they were objected to by Europeans and were disallowed on the technical ground that their locations were not mentioned in the proclamation. The decision caused some discontent amongst the applicants who were 'beginning to understand that a man with a vote is more important than one without'. They were expected to assert their right as soon as the obstacle was removed. On the other hand the

¹ *Native Affairs Reports*, 1879, p. 186, 1883, p. 55, 1884, p. 37, 1885, p. 37; Rogers, pp. 131-2. Cf. *Native Education*, p. 230, for introduction of individual title in some other countries.

² *Native Affairs Report*, 1875, pp. 41, 60. The estimate of land now owned by Natives in the Cape Province, exclusive of individual lots in locations, is 260,000 morgen. Rogers, p. 145.

³ *Ibid.*, p. 58; J. Martineau. *Life and Correspondence of Sir Bartle Frere*, ii. 211.

⁴ Acts 37 of 1884, and 32 of 1909. The fee was £2 per annum for each occupier.

Natives in the Fort Beaufort district were reported in the following year to be politically apathetic—only sixty-four were registered and scarcely half voted.¹ The latter view seems to have been the more accurate description of the prevailing attitude towards the franchise, for the subject is not mentioned again in the reports on Native affairs from the various districts until 1885, when there was a sudden burst of registration. Large numbers were now reported to be applying, and, as no proof of their qualifications was demanded and no objections were lodged, suspicions arose as to whether they were all qualified. White opinion was disturbed when the percentage of Native voters in Queenstown increased from ten in 1882 to forty-four in 1886, and when similar increases were shown in other districts.² There was alarm lest the so-called 'blanket vote' should acquire an undue political significance and hold the balance between the two white parties. Already it was large enough in fourteen constituencies, and with the franchise as low as it was, and with communally owned property as an admissible qualification, the number might grow.

The first step taken to meet the danger was the elimination of communal ownership as a potential qualification. A clause of the Parliamentary Registration Act of 1887 declared that no person should be entitled to be registered by reason of his sharing in any tribal or communal occupation of lands.³ The exception, it was claimed, did not offend against the principle that all civilization tests should apply equally to white and coloured, for communal ownership was 'the tenure of barbarism'. It made clear, however, that assimilation was the end in view, and that any acquisition of political privileges by the Bantu depended on their rate of Europeanization. That this was the ultimate objective was apparent in the next two acts referring

¹ *Native Affairs Reports*, 1874, p. 5, 1875, p. 147.

² *Ibid.*, 1885, pp. 19, 58.

³ J. H. Hofmeyr, *The Life of Jan Hendrik Hofmeyr*, pp. 283-4, 309-13, Act of 1887, clause 17. It may be noted that the clause was carried by a majority of only seven in a house of 53.

to the subject. The first, passed in 1887,¹ exempted all aboriginal Native voters from the operation of any special legislation affecting Natives, such as the pass law, the liquor law² and the Native Succession Act.³ The second, passed in 1892, raised the wage earning and property qualifications to £50 and £75, and added a simple educational test again with the object of curtailing the blanket vote; but the new standards applied equally to white as well as black.⁴ This was the position when the National Convention met in 1908.

The Native problem was less complicated in the territories across the Kei because the whites were excluded from them. In them Bantu institutions were more tolerable. And yet assimilation was at first the unquestioned goal. The duties of a magistrate made this clear enough. One summarized them in 1876 as being to maintain and extend the Government's authority, to dispense justice and equity, to collect the revenue, to settle land questions and lay out farms, and to grant passes. The headmen were the Native side of the administration, but, being appointed and paid by the Government, were officially its servants. The Natives, however, did not entirely fall in with this dispensation. They preferred to treat the headmen as chiefs, taking their cases to them and not to the magistrates; and when the Government forbade this they dubbed the headmen 'castrated bulls'.⁵ Nor did they relish being collected into villages; and they were further antagonized by being disarmed and by the branding of their cattle, suspecting it to be a preliminary to their taxation.

The discontent thus engendered moved Captain Blyth to suggest that the government of the Natives was too direct. Despotic rule, he pointed out, might be good at times but it required an armed force to support it. The alternative was to govern the Natives through themselves,

¹ Act 39 of 1887. It is known as the Hofmeyr act. It was opposed by the pro-Native party because of the liquor clause.

² Act 12 of 1864.

³ Act 28 of 1883.

⁴ Act 9 of 1892.

⁵ *Native Affairs Reports*, 1879, App., p. 9, and 1879, p. 188.

to allow them to 'feel and understand that they have some power'. He himself put the precept into practice by arranging monthly meetings of headmen in each magisterial district, and quarterly meetings in his own office of Native representatives chosen at the monthly meetings. He hoped that this would be the beginning of a council.¹ The 1883 Commission on Native Laws and Customs took the same view as Blyth and suggested a council of eighteen members, including the three magistrates sitting without a vote, and five Natives from each district, chosen at public meetings presided over by the magistrates.² But no action was taken on this recommendation until 1894.

The 1883 Commission also discussed the representation of the Transkeian Natives in the Cape Parliament. Sir Bartle Frere in 1879 had suggested that for them a special education test should be added to the regular property qualification. He argued that this would give fair representation without letting in the blanket vote. The Commission, on the other hand, was willing that the Natives should be registered on the same basis as the whites, but that those qualified should be excluded from voting for the local councils. Three years later T. Uppington introduced a 'Transkeian Representation Bill'. It left the qualification for Europeans in the Transkei as it was in the colony, but increased it for the Natives to £100. Furthermore, it adopted the principle of a differential representation by providing that the registered Natives together with the Europeans should return one member, while another should be chosen by an electoral council representing all Natives paying hut-tax. The bill did not pass and in the following session parliamentary representation was extended to the Transkei on the Cape basis, the qualification of communal ownership having now been abolished as mentioned above.³

This array of policies was available to the Rhodes

¹ *Ibid.*, 1881, p. 39, 1883, pp. 128-9.

² *Report*, paragraphs 121-2.

³ 1883 Commission Report, para. 125, G. 59 of 1884, pp. 9-12. Hofmeyr, p. 383, Act 30 of 1887.

Government when it drafted the Glen Grey Act in 1894. The act established Location Boards and a District Council for Glen Grey, and adopted the suggestion of the 1883 Commission that the members of the Boards should be appointed by the Government after considering names recommended by public meetings of the resident land-holders. The District Council was constituted of six members nominated by the Boards for appointment by the Government, and six other members chosen by it. The act also improved on the Location Acts by abandoning settlement in villages. It did not require the survey of dwelling sites, being content with the issue of individual titles to arable land only. But the ownership of a plot was not to be a qualification for the franchise. The act also rectified the conditions and cost of survey and of transfer, and forbade any alienation of the land without the Government's consent.¹ These improved methods of introducing individual title were gradually applied to the Transkei. Location Boards were established, and they recommended men for appointment to the District Councils by the Government. Where no Location Board existed a meeting of headmen submitted names. In 1906, the Location Boards were abolished, and instead the rate-payers of each location selected three representatives to meet and nominate four of their number for submission to the Government as members of the District Council. The District Councils nominated members to be appointed by the Government to the Transkei General Council, the other members being chosen by the Government on its sole responsibility.² Thus the control of the Government over the personnel of the councils was supreme. No member owed his seat either to the land-holders, the headmen, or the ratepayers. Their recommendations were all subject to the veto of the Government, which had unfettered power of edictal legislation.³ The same principle applied to the conduct of the business of the councils. The magistrates as the executive officers of

¹ Act 25 of 1894.

² Rogers, pp. 37-44, 146-7.

³ Act 29 of 1897.

the Government decided whether or not resolutions should be carried out, or what action should be taken on them.

2. *Natal*

These interesting experiments in Cape Colony were not repeated in Natal. There the project of reforming Native land tenure was not proceeded with.¹ Political progress as measured by the acquisition of the franchise was non-existent. No exemptions from Native law were issued before Shepstone's retirement from the post of Secretary for Native Affairs. On all these points Natal differed widely from Cape Colony. The Shepstone system suffered from the defects of its qualities. It was well suited to the period of first contact, but, being over-centralized in its creator and dominated by him, it became formalized and conservative—'a sacred mystery',² to use Sir Bartle Frere's phrase. The Zulus, in Shepstone's opinion were 'a proud conservative people naturally opposed to the encroachments of civilization'. But his attitude towards the Hlubis and the more docile aborigines of Natal, from whom the Fingoes had been recruited, was no different.³ And, although he declared the Natives of the Transvaal to be more inclined than the Zulus to adopt civilized ideas and habits, there was no time, after the annexation and before the retrocession, to do more than begin to reproduce the same system that was now being criticized in Natal.⁴ Sir Bartle Frere's description of him as 'determined to oppose all innovation and division of his authority'⁵ is supported by the facts. Creators of systems are apt to suffer from these imperfections and Shepstone's policy became progressively abstentionist.

¹ See Rogers, p. 138.

² Martineau, *Life of Sir Bartle Frere*, i. 250.

³ Sir A. Harding, *The fourth Earl of Carnarvon*, ii. 264, and 167, Lord Carnarvon's statement—'Barbarous customs which it was the intention twenty years ago gradually to get rid of, have been in some respects strengthened rather than weakened.'

⁴ Transvaal Ordinance No. 11 of 1881; Brookes, p. 125. See below, pp. 262-4. ⁵ Martineau, ii. 240.

The awakening came with the Langalibalele trouble in 1873, the same year as an unpopular tax of £5 was imposed on all Native marriages. The immediate cause of the rebellion was an order requiring the chief's people to register their arms.¹ The repercussions of the resulting disturbance spread throughout South Africa, bringing home once more to its peoples their interdependence in Native affairs, and inspiring Lord Carnarvon to launch his confederation policy.²

In these circumstances the special mission of Sir Garnet Wolseley, fresh from the defeat of the King of Ashanti, to reform the Constitution and the Native administration of the colony was welcomed. The act to make better provision for the administration of justice among Natives,³ which was passed under his auspices, upset the combination of administrative and judicial functions in the person of the Secretary for Native Affairs which was the coping stone of the Shepstone edifice. It set up a Native High Court to replace Shepstone as the Court of Appeal in Native cases, it provided for the appointment of Administrators of Native laws and for a board to begin reducing the laws to a code. These reforms were from one point of view too restricted, and from another not happy in their results. Their limitation was that the administration of justice was not the only question on which the Shepstone policy required reforming. There were still the other matters in which Natal continued to lag behind Cape Colony after 1875, as it had under Shepstone. Their unfortunate effect lay in the tendency of the reforms to diminish the intimacy of the relations between the Government and its Bantu subjects. Formerly the Natives had one central personality to look to. Now they had two institutions, the Governor as Supreme Chief and a Native High Court. Nor did the situation improve after Natal was advanced to responsible government in 1893. White democratic institutions are essentially regu-

¹ Colenso and Durnford, *The History of the Zulu War*, pp. 20-4.

² C. 1399 of 1875. Dispatch of 4 May 1875, para. 4.

³ Act 26 of 1875; Brookes, pp. 64-5.

lative and impersonal. Moreover they suffered in Natal, as they did not in the Cape, from having no accepted policy of Native improvement to work on. Their defects in these respects were underlying causes of the Zulu unrest in 1906. Another overhauling of the machinery of Native administration was the consequence. It was completed just before union. It divided the colony into four districts, each under a Native Commissioner whose duties were: (1) to execute the orders of the Supreme Chief; (2) to settle all matters outside the jurisdiction of a magistrate; (3) to attend meetings of chiefs; (4) to inquire into complaints; and (5) generally to report to the Secretary for Native Affairs on all questions of interest. In addition to these efforts to restore a more personal relationship, a Council of Native Affairs was created to review all existing legislation affecting the Natives, to report on future legislation, to advise on all matters referred to it, and to receive petitions from the Natives.¹

3. *The Transvaal*

We have already drawn attention to the weakness of the Transvaal State when its independence was acknowledged by the British Government. It was not in fact a state at all, but a collection of separate republics governing themselves more or less according to the Thirty-Three Articles. These were but little more than an elementary code of judicial and administrative procedure, but they were the most to which the highly individualistic trekkers would at first submit. Nor did a Volksraad, composed of twelve members from the Lydenburg Republic and twelve from other parts of the Transvaal, meeting annually after 1849 in Lydenburg or in Pretoria, overcome the obstacles to creating a central unifying executive. Each Republic had to have its own Commandant-General. The Potchefstroom Commandant-General took the lead in bringing about a greater degree of unity by securing the

¹ Act 1 of 1909; C. 3889 of 1908. *Report of the Native Affairs Commission, 1906-7.*

appointment of a Committee to draw up a constitution. From its labours emerged the 'Grondwet' on which the Transvaal Republic was founded. Its references to the coloured population showed no change of attitude. Any equality of white and coloured in church or state was forbidden. The exclusion of the latter from meetings of the Volksraad was repeated, while every white burgher of twenty-one years or more was enfranchised. The arrangements for maintaining internal order drew a distinction between white and coloured disturbances. 'Keeping the Kaffir-Chiefs to the performance of their duty' was a function of the local commandants, and white burghers and coloured persons were liable to serve. Disaffection amongst the whites was suppressed by the Commandant-General, and for this no coloured persons could be called up. They were, however, liable to be mobilized for offensive and defensive operations against a foreign state, whether white or black.¹

The Transvaal Republic was thus loosely organized when its career was rudely interrupted by Shepstone's annexing it in 1877. We are not here concerned with the history of this untoward incident. It was an outcome of Carnarvon's over-anxiety to nurture his confederation policy, and of his practice of appointing special emissaries for particular purposes. In this instance he commissioned the historian Froude to tour South Africa as an apostle of federation. Froude was hampered by the suspicion of the Cape ministry which he could neither allay nor avoid intensifying, and his mission failed.²

Carnarvon then determined to attack the problem through the Transvaal. Its financial and other difficulties encouraged a belief that its people might be willing to confederate, though in what form and in what terms was never properly canvassed.³ If the Transvaal could be in-

¹ Eybers, pp. 362-410. Law 1 of 1876 defined the franchise as follows: 'No person not regarded as belonging to the white population of the South African Republic shall be enrolled as a burgher possessing the franchise.'

² C. 1399 of 1875, pp. 58-83. Froude's *Report*.

³ Harding, *Carnarvon*, ii. 174-5, 233, 235-6.

duced to join with Natal and Griqualand West, the latter being at that time a separate Crown Colony, the Orange Free State would be obliged to follow suit. This new approach required another special emissary and Shepstone was the obvious man. He was in London at the time and could be personally instructed. He arrived at Pretoria, accompanied by only a staff and a few policemen, and with this meagre backing annexed the country to the British Empire. The action proved fatal to the policy it was intended to promote. It diverted attention from the issue and queered the pitch of Sir Bartle Frere, who almost simultaneously arrived to assume the duties of High Commissioner specially deputed to carry confederation through.

The terms on which the annexation was accomplished, and the conditions that governed its annulment four years later, were based on Natal and not on Cape precedents. The annexation proclamation guaranteed equal justice to white and coloured but declared that the principle did not imply 'the granting of equal civil rights, such as the exercise of the right of voting by savages, or their becoming members of a legislative body, or their being entitled to other civil privileges which are incompatible with their uncivilized condition'.¹ Carnarvon was of the same opinion. In his scheme for confederation he opposed the direct representation of the Natives in a central legislature, but favoured them voting for Provincial Councils where the circumstances warranted it, as they did in Cape Colony but as they did not in Natal or in the Transvaal.² Similarly the coloured franchise was not mentioned in the Pretoria Convention of 1881 annulling the annexation, but a provision was included reserving for the Queen's consent any future enactment affecting the interests of the Natives. In addition their territorial rights received an attention that had hitherto been denied them, by the creation of a Location Commission to demarcate reserves and hold them in trust, and by securing the right of Natives to buy land outside the reserves subject to its

¹ *Ibid.*, p. 274; *Eybers*, p. 453.

² C. 1732 of 1877, p. 19.

being registered in the name of the Commission. There was thus a marked difference between the terms of the Pretoria Convention granting independence to the Transvaal in 1881 and the Zand River Convention of 1852. The latter had ignored Lord Stanley's and Lord Grey's misgivings whether a locally independent and democratic government could be relied on in the circumstances of South Africa to maintain impartial justice between white and coloured, and had established the independence of the Transvaal unconditionally. The Pretoria Convention contained specific guarantees of Native rights. And, although the reservation of enactments affecting the Natives was abandoned in the London Convention of 1884, that document reaffirmed the other provisions of its predecessor relating to the Natives' territorial rights and to their freedom of access to the courts of law.¹

The British also established a Department of Native Affairs, and just before the retrocession passed an ordinance introducing Shepstone's Natal system of the recognition of Native law, with the Executive Council as the Appeal Court and the head of the Government as Supreme Chief.²

As soon as the London Convention had been ratified, the Transvaal Government passed a law governing the Natives.³ It closely followed the Natal precedent. It withdrew the Natives from the jurisdiction of the field-cornets and placed them under Native Commissioners. It accepted Native law as valid and allowed for an appeal to the head of the Native Affairs Department, whose decision was made subject to confirmation by the Government. It established the President of the Republic as Paramount Chief of all the Natives and gave him power to depose chiefs and publish regulations. It did no more. As in Natal there was an absence of any accepted plan of improvement. Only a beginning was made with setting

¹ C. 2892 of 1881. Instructions to the Commissioners for settling the affairs of the Transvaal; Eybers, pp. 455-61, Pretoria Convention, clauses iii, xiii, xxi, xxii, p. 474. London Convention, clause xix. Law 3 of 1876 had provided for locations, but nothing was done under it.

² Law 11 of 1881; Brookes, pp. 124-5.

³ Law 4 of 1885.

aside locations; and, as the law limiting the number of Native families permitted on European farms was ineffective, large numbers of them became established outside Native areas, to the embarrassment of future governments.

This was the position when the British Government again became possessed of the Transvaal after the Anglo-Boer war.

Some years before this event a great change had come over South Africa through the discovery of the Witwatersrand gold-fields. The opening up of a great mining industry in the centre of the country had a revolutionary importance. It dominated the economic development of South Africa. It governed all future railway construction. The competition for its trade added another reason for union. It complicated the political position by establishing in the North a large white immigrant community out of sympathy with the traditions that the trekkers had left Cape Colony to maintain. Its influence on the Natives was equally great. It encouraged the growth of a new urban detribalized class such as had not hitherto emerged. It greatly enlarged the demand for Native labour.

The outgoing of Natives to look for European work was not new. The cattle killing of 1857 had given it a great impetus, and the construction of public works in Cape Colony had further encouraged it. In 1875 a Native Labour Agency had been opened in Kingwilliamstown to secure labour from outside the colony. Recruits were brought in from the Transvaal, from Bechuanaland, Basutoland, Tongaland and Portuguese East Africa, and magistrates began to draw attention to the danger of tribal animosities breaking out in unexpected places as a consequence.¹ The Kimberley diamond fields attracted still larger numbers from all parts of South Africa and sent many home with firearms. But Johannesburg overtopped all as a centre of Native congregation.

¹ The terms on which such labour was available to private persons were a deposit of £6 a head and wages at £1 a month. They were considered liberal and as likely to attract a large number of Natives to the Colony *Native Affairs Report, 1875*, pp. 59, 129.

The problem of supplying the mines with labour became still more insistent when Lord Milner undertook the reconstruction of the Transvaal and the Orange Free State after the Anglo-Boer war. The financing of his policy depended on a rapid development of the mining industry and this was impossible without labour. Johannesburg, therefore, became the key position in his plans, and he took up his residence there as Governor of the two new colonies, transferring the seat of the High Commissionership to it from Capetown.

The labour problem could not be dissociated from the Native problem, and both were referred by Lord Milner to a conference representing all the colonies summoned to establish a customs union. One of its resolutions led to the appointment of the Labour Commission which recommended the importation of Chinese labour. Another bore fruit in an inter-colonial Commission charged with the duty of arriving, if possible, at a common understanding on Native policy. Its report was published in 1905 and is an important landmark in Native policy, because it foreshadowed what subsequently became the policy of the Union of South Africa on the questions of Native land-ownership and the Native franchise. On the former it deprecated any compulsory sub-division of Native reserves into individual holdings, but favoured encouraging a movement in that direction. It referred to the evil of unrestricted squatting and recommended that only genuine Native servants should be permitted to live on European-owned land except under Government control and subject to the payment of an annual licence. Furthermore, in order to safeguard European interests, it proposed that land purchases by Natives should be confined within specific areas in which tribal or communal tenure should be prohibited, and that a similar separation between white and coloured ownership should be introduced into the towns. On the franchise question, on which the British Government was stopped from taking any action of itself by the terms of the treaty of Vereeniging, it advocated separate voting by Natives for a fixed

number of representatives, the number of representatives and the voters' qualifications being decided by each state. It hoped by this means to avoid all racial strife, to free all question of the betterment of the Natives from any fear of a possible preponderance of their voting power, and to establish a uniform political status for them throughout South Africa.¹

Simultaneously with the receipt of this report, South Africa was startled by another Natal Native rebellion following the imposition of a poll-tax on every European and Native of eighteen and over. The disturbance was sporadic and ill-organized and was suppressed without much difficulty. But, like the Langalibalele affair, it made clear once again that, so long as South Africa remained divided, no state within it was really self-governing, and that the only central authority was the High Commissioner who was responsible to the Imperial Government.

Two years later the National Convention met.

¹ C. 2399 of 1905. *Report of the Commission*, paras. 147, 181, 193-7, 254, 443-4. By the treaty of Vereeniging natives could be admitted to the franchise only by 'Responsible Governments' of the Transvaal and Orange Free State.

CHAPTER V

UNION

THE descendants of the trekkers were already confronted with the break-down of their inherited rural economy when the new era was ushered in by the discovery of the gold-fields. Many had degenerated into 'poor whites' occupying their land in undivided shares, a tenure ever incompatible with progress, or into 'by-woners', that is to say dependents, with no security of tenure, of their more fortunate or more enterprising neighbours. The past clung to them as closely as did the shadow of the plantation to the 'poor whites' in America. Others lost touch with the land and joined the drift to the towns.¹ So also did many Natives. Their reserves and their farming methods were inadequate for their support, and they were attracted from them and from service on the farms by the higher wages obtainable in the towns. Thus, both white and Native societies became more complex. Formerly all the whites had been on one level as land-owners, employers of labour, and members of the professions. To these were now added rural and urban poor whites and skilled immigrant industrial workers. The Natives had hitherto lived either in the reserves or on European-owned farms. A third class were now dwellers in towns.

These changes did not diminish the divergence between the North and the South on the colour problem, and they intensified the racial divisions of the white South Africans. The Dutch farmers feared the political influence of a great industry financed from oversea and operated by immigrants, just as the cotton growers of the Southern States of America had distrusted the commercial and numerical predominance of the North. Hence the South African

¹ *Transvaal Indigency Report*, T. G. 13-1908, p. 64; *Economic and Wage Commission Report*, 1925, U.G. 14-26, pp. viii-xii; Part V, chap. i; W. M. Macmillan, *Complex South Africa*, Part II.

National Convention had to deal with the same problems of the distribution of voting power and of seats as had arisen in America. In South Africa it was necessary to allot the seats between the Provinces, and then to divide them between the old Dutch rural and the new British urban interests. We are here concerned only with the first process. In America, the North had had to meet the South's demand that its slaves should be taken into account in apportioning the seats in the House of Representatives according to population. The South African Convention was met by the difficulty that if it based the allocation of seats between the Provinces on white voters only, Cape Colony and Natal with their franchise qualifications would be at a disadvantage as against the white manhood suffrage of the Transvaal and Orange Free State. On the other hand, the North would not agree to basing it on voters regardless of their colour. In the end a compromise was reached to include all adult white males and to exclude the Cape Coloured voters. Their omission was really only a repetition of the inclusion of slaves in America in 1789 in different circumstances. Both had the same object of safeguarding a particular white standpoint. Furthermore, the Coloured voters in the Cape were deprived of the right they had hitherto possessed but had never exercised of sitting in parliament. It is worth noting that these changes differed from the former Cape enactments affecting the franchise in that they reduced the privileges of existing Coloured voters. The Cape representatives in the National Convention agreed to them believing that once union were accomplished the influence of the Cape would mitigate the Northern attitude. The British Government took the same view. Moreover the Cape Coloured vote was safeguarded in the Act of Union by a requirement that any act interfering with it must be passed by a two-thirds majority of both houses of parliament sitting together.¹ Nevertheless within two decades it was on the defensive against Northern attacks.

Almost immediately after Union the North began to be

¹ Section 35 of the Act of Union.

alarmed at the possible extension of the Cape policy and to murmur against the Government for not taking steps to prevent it. General Botha had formed his first ministry on racial and provincial alinements. Except for a small British element from Natal, his cabinet was Dutch in nationality and rural in sympathy, and contained strong supporters of the Southern or Cape view on the colour problem. Botha had declined to form a 'best man' government regardless of pre-union political and racial divisions. He rightly foresaw that the forgetfulness of old animosities, which had marked the meetings of the National Convention, would not survive the clash of current politics. Even so his first ministry lasted only two years. He had then to choose between either losing his Natal support or General Hertzog whose speeches on imperial questions had been highly obnoxious to the British. He parted with Hertzog, who, going into the wilderness, began to organize a National Party pledged to protect South Africa from imperial commitments and its white people from coloured competition.

A desire to placate the same nervousness caused General Botha in the following year to pass a Native Land Act giving effect to the recommendation of the Native Affairs Commission of 1903-5 that the land rights of the Europeans and the Natives should be separated,¹ and so depriving the Natives of the Transvaal and Natal of their right to buy and lease land outside the reserves, and the Natives of the Orange Free State of their right to lease it.² The Government's plan allowed existing Native squatters and 'métayers' to remain if the owner agreed. But it contemplated their eventual elimination and the confining of any Native occupation of white land to a labour tenancy involving not less than ninety days' work in the year. The Act failed to operate in the Cape Province because a judgement of the Appeal Court ruled that so long as land holding was a means of qualifying

¹ Act 27 of 1913.

² The purchase but not the leasing of land by Natives was forbidden in the Orange Free State.

for the vote the Natives must be left free to acquire it for that purpose.¹ It also failed to enlarge the existing reserves which were admittedly too small for the Native population. The several Commissions which were appointed to recommend how they should be enlarged did not succeed in making proposals acceptable to Parliament, and all the Government could do was to facilitate the purchase of land by Natives in the areas they recommended.²

The industrial side of the policy of separatism was equally rapid in developing. Two changes were favourable to it. In the first place the character of the mining population of the reef altered during the 1914-18 war, when most of the immigrant skilled workers were replaced by Afrikanders who sympathized with General Hertzog's new party. Secondly, after the Anglo-Boer war, the mining community lost the political cohesion of its opposition to Krugerism and embarked on an internecine struggle between capital and labour. One of the chief issues was the extent to which white men should be employed in preference to Natives. There was no question about the higher responsible positions being reserved for whites. Considerations of safety, efficiency and health made that inevitable. But whereas in the Kimberley diamond mines in Cape Colony the practice was observed by custom,³ in the Transvaal and in the Orange Free State it was enforced by Government regulations. One of the first acts passed by the Union Parliament purported to authorize the Government to maintain this 'colour-bar'⁴ which preserved thirty-two skilled and semi-skilled trades for seven thousand whites. But there still remained a number of semi-skilled occupations which the white labour unions and the exponents of industrial separatism

¹ Thompson and Stilwell *v.* Kama, A.D. 1917, p. 209.

² Under Section 1 (2) of Act 27 of 1913. Between April 1918 and March 1932 about £260,000 was spent on buying land to lease to Natives. Rogers, p. 170.

³ *Round Table*, No. 46; *Low Grade Mines Commission Report*, 1920.

⁴ Act 12 of 1911, Section 4 (1) n.

claimed should also be reserved for whites. Just as in Chicago in the 'eighties' white men had determined to be shoe-polishers, so after Union, white men in Johannesburg claimed the right to be, for example, drill-sharpeners, and drove home their demands by a series of strikes. Violent disturbances from May to July 1913 ended in the strikers gaining the recognition of their Unions. Thus encouraged they embarked in the following July on still larger operations designed to hold up the whole community. This time the Government was more prepared and defeated them. But it dissipated its advantage by deporting eight of the leaders without trial.¹ In the ensuing Transvaal Provincial elections the labour party was returned to power, and four years later the mine-owners undertook, in what was known as the 'status quo' agreement, to reserve nineteen additional semi-skilled occupations for some four thousand whites.²

The many Natives congregated in Johannesburg and on the reef were interested spectators of these events. They watched the Union Government reduced in July 1913 to the humiliation of signing terms with men who had defied its authority. They observed the growing power of the trade unions. They noted the victory of the labour party in the Transvaal Provincial elections. They observed how the white workers' interests were protected and their opportunities of employment enlarged by legislation. They were impressed by the ease with which the municipal employees of the Johannesburg Power Station in March 1918 held the town council up to ransom on the ground of the rise in the cost of living, and received advances of wages in excess of it. They were moved to try the experiment for themselves. Their cost of living had also risen, while their wages had remained stationary. They had already protested by boycotting trading-stores on the East Rand, and an inquiry had been held into their grievances.³ But

¹ For the strikes see Cd. 6941-2 of 1913 and 7384 of 1914. Also *Round Tables* Nos. 13 and 14.

² *Ibid.*, Nos. 46, p. 435, 60, pp. 831-2.

³ Native Grievances Enquiry Commission, 1913-14.

no action had followed. And so, early in June 1918, some of those employed in the Johannesburg sanitary service refused to work. After the 1914 disturbances a Riotous Assemblies and Criminal Law Amendment Act¹ had been passed making it an offence for any employee of a public utility service to break his contract of service by striking. It so happened that the white men in the Johannesburg Power Station were all on a day's notice. Therefore their refusal to work was not a breach of the law. But the Natives were employed on a monthly contract. Their strike, therefore, was an offence. Moreover they were liable to prosecution under the Masters and Servants law,² and they were arraigned before the magistrate and punished. The discrepancy between the generous advances of wages given to white strikers and the punishment meted out to Natives was too obvious to be tolerable, and there seemed a possibility of serious trouble. But an appeal to their loyalty, the suspension of the sentences and the appointment of the Chief Magistrate of the Transkei to conduct an inquiry, had a calming effect.³

Meanwhile the economic position of the gold-mines had been adversely affected by the rise in the cost of materials and by higher white wages. The situation was temporarily relieved when war restrictions on the sale of gold were removed and the price rose from the standard 85s. per oz. to about 110s. But further increases in white wages followed and were still operative when the price began steadily to recede. The serious position of the lower grade mines in these circumstances had been referred to a Commission in June 1919. It reported in the following May.⁴ One of its recommendations was that the 'colour-bar' and the 'status quo' agreement should be rescinded and that semi-skilled occupations should be open to Natives by agreement with the white unions. By December 1921 the value of gold had declined to 97s. 6d., and on the 9th the Chamber of Mines wrote to the South

¹ Act 27 of 1914.

² Law 13 of 1880.

³ *Round Table*, No. 33, pp. 194-9.

⁴ Low Grade Mines Commission.

African Industrial Federation suggesting that the time had come when the 'colour-bar' should be limited to skilled trades only, and that greater use should be made of experienced Native labour in others. The Chamber estimated that the change would mean a reduction of about two thousand white employees. An attempt was now made to reach an agreement by fixing the ratio of Europeans to Natives employed.¹ The Chamber suggested that for two years it should be fixed at not less than 1 white for every 10·5 Natives, the employers being at liberty to arrange work as they liked subject to maintaining the ratio. The Federation in reply proposed a ratio progressively favourable to the whites until the population basis of about 1 white to 4·5 Natives was reached. The Chamber of Mines of course refused this, but offered to forgo the retrenchment of a thousand men in the higher grade mines. While these negotiations were proceeding not very hopefully, the Transvaal coal miners came out on strike over a reduction of wages which the owners refused to submit to arbitration, and the Chamber gave formal notice of termination of the 'status quo' agreement, in order to comply with the Industrial Disputes Act which required a month's notice of any change of conditions. The Power Stations had now joined in, and the proposal of the Chamber of Mines having been defined as a 'threat to substitute cheap black labour for white' a strike was declared on 10 January 1922.

Two months' abortive negotiation followed, during which bands of strikers, organized as 'commandos', drilled and marched about as they pleased, while the Nationalist parliamentary opposition became increasingly committed to their support. It was natural that it should be, for the majority of underground workers and members of the Mine workers Union were now of South African origin.² There was a debate in Parliament on 22 February

¹ Cf. the West Indian Deficiency Laws; *The Atlantic and Slavery*, p. 270-1.

² W. M. Macmillan, *Complex South Africa*, p. 58; *Round Table*, No. 60, p. 831.

on a motion by General Hertzog deprecating any contraction of white employment and calling for legislation to prevent it. The Government amendment, which was carried, advocated a return to work on the best terms obtainable and promised a board of inquiry. On the same day the Government was compelled to warn the strike commandos that, if they interfered with men returning to work, they would be dispersed by the police, and five days later the first encounter took place. The subsequent events partook of the nature of a civil war. Martial law was proclaimed. Government forces numbering over nineteen thousand men were mobilized. Public buildings were bombarded. The reef became the terrain of field operations, and two hundred and thirty persons were killed and five hundred and fifty-three wounded. Included in the casualties were thirty-one non-Europeans killed and sixty-seven wounded. They were innocent victims of the strike mania; for the Native workers on the mines were passive spectators of the bloodshed, although the extent of their employment was its primary cause.¹

The defeat of the Nationalist-Labour forces was followed by the long-deferred lowering of mining costs by reorganizing underground work and by reducing white employment. But the victory was shortlived. The vanquished parties retaliated by winning the general election of 1924 on a mutual understanding or 'Pact' that the protection of the white workers from the competition of the Coloured would be the first duty of the new government and that any question of South Africa's right to secede from the Empire would not be raised during the life of parliament. A variety of other circumstances were favourable to the success of the 'Pact'.

In the first place, the legality of the regulations enforcing the 'colour-bar' on the mines had been demolished in November 1923 by a judgement declaring, in language reminiscent of Lord Mansfield's in the *Somerset* case, that the withholding of a certificate of competency from a man

¹ *Ibid.*, Nos. 46 and 47; U.G. 35 of 1922.

on account of his colour must have behind it a more positive authority than a general power to issue regulations.¹ Secondly, the Smuts Government had reduced the white men employed on unskilled work on the railways, and so had appeared to be abandoning an experiment of replacing Natives by whites which had been initiated in 1907. Starting with three hundred men, the number had risen in 1921 to four thousand seven hundred and five. In 1924 it had fallen to three thousand and eighty-three, and many of these were only temporarily engaged.² Thirdly, the report of the Census of 1921 had been published with an alarmist prefatory note that seemed to presage an early swamping of white civilization in black barbarism unless some drastic action were taken.³ Finally the Bantu vote in the Cape Province again began to give evidence of an embarrassing resiliency. At the time of Union the racial distribution of voters in Cape Colony was:

| Year | Europeans | Bantu | Asiatics | Coloured |
|------|-----------|-------|----------|----------|
| 1909 | 121,346 | 6,637 | 783 | 13,611 |

Twelve years later the figures had risen to

| | | | | |
|------|---------|--------|-------|--------|
| 1921 | 156,541 | 14,282 | 2,429 | 24,361 |
|------|---------|--------|-------|--------|

Thus it appeared that the White vote had increased 22 per cent., the Bantu vote 115 per cent., the Asiatic vote 210 per cent., and the Coloured vote 79 per cent. It was not in such circumstances that the Cape policy could be expected to penetrate the North.

Before describing the policy and actions of General Hertzog's 'Pact' government we must refer to two important measures passed through Parliament by their predecessors. The Native Administration Act of 1920⁴ empowered the government to set up local self-governing councils on the Transkeian plan in any other reserve, and

¹ Rex *v.* Hildic-Smith. *The Atlantic and Slavery*, p. 239.

² Carnegie Commission Report on Poor Whites, Part II, p. 77.

³ U.G. 37, 1923. Macmillan, *Complex South Africa*, p. 32.

⁴ Act 23 of 1920; Rogers, pp. 31-5.

instituted a Native Affairs Commission of three Europeans without whose co-operation no council could be established. The Commission, like the former Council of Native Affairs in Natal, was also charged with the duty of submitting advice to the government on any matter relating to the general administration of Native affairs and on any legislation affecting the Native population, while the holding of periodic representative Native conferences was made contingent on the Commission's recommendation. Secondly, the Native (Urban Areas) Act applied the principle of separatism to the towns by requiring urban authorities to set aside locations where Natives other than domestic servants must reside.¹ The administration and the finances of these locations were made a separate department of each European municipal authority, Native opinion being given some means of expression through location advisory boards. Power was taken to remove Natives who were unemployed, idle or dissolute, 'to the place to which they belonged'.

Thus the first thirteen years of Union had shown that the tendency was to follow republican rather than Cape precedents in legislating for Natives living outside the reserves, but to accept the Cape system for those in the reserves. A speech delivered in May 1918 by General Smuts is of interest in this connexion. In it he drew a picture of the Union of the future as divided between 'areas cultivated by blacks and governed by blacks, where they will look after themselves in all forms of living', and 'white communities governing themselves according to accepted principles', but with blacks coming to work in the white areas.² The description tallies with the form of separatism embodied in the treaties made with Native chiefs by the trekkers when they acquired land for their own occupation. Their principle was the rigid territorial segregation of white and black, except that Natives whose services were required were allowed to remain in the white

¹ Act 21 of 1923. Certain other smaller classes of Natives were also exempt from this provision.

² The relevant passage is quoted in *Round Table*, No. 80, p. 807.

areas but were never permitted to become citizens. All others were relegated to the Native territories, there to be governed by the chiefs as hitherto. These trekker treaties differed from the British Cape treaty system which had as its object to preserve areas for Native occupation rather than to acquire land for colonization; while Natives who were admitted to the European areas enjoyed opportunities of qualifying for the same privileges as the whites. But the modern separatism as expounded by General Smuts differed from the trekker, and agreed with the Cape, in its proposals for developing the self-government of the Natives in the reserves. On this point it accepted the Cape precedent and made it applicable to all reserves in the Union.

Hence by 1924, when the 'Pact' government took office, four principles had been established:

1. That the Natives in the reserves should be encouraged to develop a 'group economy' of their own, and that they should enjoy some measure of local self-government.

2. That Natives would be tolerated in European areas only as labourers or domestic servants and that they should occupy land only as labour tenants.

3. That only employed Natives should be allowed to remain in urban areas, that they should be residentially and administratively segregated, and have a share in the management of their locations through advisory boards.

4. Natives belonging to all these categories could qualify for the franchise in the Cape Province. Elsewhere, they were all excluded, but they might be represented at Native Conferences, if and when such were held, on matters directly affecting Native interests.

Thus the South African Coloured 'group economy' unlike the American was to be territorially segregated in the reserves. But as these were capable of accommodating only a little more than half the Bantu population of the Union, the remainder had to find permanent lodging and subsistence in the European area. In this their position was akin to that of the American Negroes, but with one all

important difference. They could not acquire the same security of tenure as could the Negroes, whose 'group economy' was founded on opportunities of procuring the same interests in land as the whites. Many of the Bantu were as ambitious as American Negroes. But their opportunities were now fewer than they had been, because they had received no compensatory advantages for their loss of rights under the 1913 Land Act.

The policy of restricting the opportunities of Natives in white areas was carried still further by the new 'Pact' government under General Hertzog. He had an undeniable mandate from the electorate to enlarge the field of white employment, and immediate results could be obtained by dismissing black labour and replacing it by white. The government, as the largest employer, could go far in this direction by reserving certain work for Europeans on the railways, in the Post Office, and in public works. On the railways, for example, the actions of the previous government were at once reversed, and the number of unskilled whites employed rose by 1929 to over fifteen thousand.¹ So far as they were concerned the policy was successful, for a system of promotion gave many of them opportunities of permanent engagement in the service. But in its effect on the Natives whom it displaced its ultimate reactions must be detrimental to the whites. The interests of the two are no more separable in Africa than they are in America; and throwing Natives on the unskilled labour market, without making any alternative provision for their welfare, must aggravate the threat of their lower standards to the civilized habits that their displacement by whites was designed to protect. The same effect must result from manipulations of the customs tariff which had for their object the displacing of Natives by whites in factories and which simultaneously depressed the standard of living of the Natives by raising the price of manufactured articles used by them. The Wage Act, another instrument of the new policy, suffered from the same defect, because it excluded farm labour² from the

¹ *Carnegie Report*, ii. 77.

² Domestic service was also excluded.

purview of the board which it instituted to adjust wages as far as possible to 'civilized habits of life'. Farming is the largest South African industry. It provided a living in 1926 for 35·4 per cent.¹ of the white working males of the Union, while 37 per cent.¹ of the Union's Bantu population were permanently settled on European-owned farms. To abandon this important social area to the uncivilized Bantu habits, which in the past had contributed to the emergence of the poor whites, was to gloss over the disease and to leave one of its causes untouched.

Political considerations made any other course impossible. Rural Nationalism was as conservative as farming communities are apt to be where their interests are concerned. Its industry had been built up on cheap Native labour and any departure from it was impossible. Moreover the policy of the 'Pact' government tended to discourage the employment of Natives in the towns and thus to increase the supply of their labour on the farms. In this again it went contrary to its civilized wage policy. Only in the towns had Native wages shown some inclination to rise and so to reduce the wide gap between European and non-European wages. The standard £1 a day for a white artisan was possible only because the pay of the unskilled Bantu labourer did not exceed £1 a week, a rate incompatible with civilized habits.² In Capetown on the other hand, the disparity between skilled and unskilled wages was less marked, because the pay of the Cape Coloured worker was higher than the pay of any other non-European in South Africa. He was in the position that the lower-grade European aspired to occupy elsewhere, and the fact had to be recognized by the new government. One of its first cares had been to give the

¹ Agriculture, 35·4, Mining, 4·7, Industrial, 21·3, Commercial, 17·6; *South African Year Book*, 1933, census 1926.

² Economic and Wage Commission, 1925, paras. 28 and 29, Table IX. U.G. 14-26. Cf. the 3 bits a day earned by white supervisors of Negro workers in Jamaica and the 3 bits a week paid by the former to the latter. *The Atlantic and Slavery*, p. 278.

northern industrial colour-bar the legislative sanction it had hitherto lacked, and at the same time to take power to apply it anywhere in the Union and to any kind of work. But certain classes of Coloured persons and more particularly the Cape Coloured were exempt from its provisions, thus indicating that in the separation of white and black they were to be included amongst the whites.¹ While therefore the northern point of view gained the ascendant on the question of the employment of Bantu, the Cape point of view prevailed in so far as the Coloured people were concerned.

On the same principle of differentiating between Coloured and Bantu, General Hertzog proposed that the former should be included on the white voters rolls of the Union, while the latter should be disfranchised in the Cape Province and given some form of separatist representation throughout the Union. This has proved a long and difficult process involving many changes of plan. The first proposal gave the Natives of the whole Union a fixed number of seven European representatives in the House of Assembly, (as had been suggested by the 1903-5 Commission), a Union Native Council meeting annually. These benefits were, however, hedged round by qualifications robbing them of much of their value. The methods of electing the seven members were not specified and, in view of the wide expanse of the constituencies, could only be very rudimentary and unrepresentative. Moreover, the members when elected were not to have the right to vote on any matter declared by the government to be a question of confidence. The Union Native Council was only advisory, was not properly representative and its chairman, an officer of the Native Affairs Department, had power to make rules for its conduct and to adjourn it at his discretion.

The opposition of southern opinion to these guarded proposals was accentuated by certain features of the Native Administration Act of 1927. One of its effects was to strengthen the authority of the Governor-General, that

¹ Act 25 of 1926.

is to say the government, as Supreme Chief¹ by vesting him in the Transvaal and the Orange Free State with the rights, immunities, powers and authority that he already possessed in Natal. Among them was the power to divide or amalgamate tribes, to remove them, or any individuals, to punish political offenders and to impose collective fines. No action by the Supreme Chief was cognizable by the Courts, but if a tribe objected to being moved a resolution of both Houses of Parliament was necessary before the order could be executed. Power was also taken to make regulations controlling the movements and behaviour of Natives, and to prohibit gatherings in excess of ten in any location or reserve without the approval of the magistrate, except for religious or administrative purposes. Any letter of exemption issued to a Native could be cancelled without assigning any reason. These provisions recalled the days of Theophilus Shepstone and seemed to take no heed of recent Bantu progress. They treated all alike and indiscriminately as tribal. But many Bantu had got beyond that stage and were not willing to revert. Moreover, as the government of the Cape had followed the opposite course of breaking down rather than preserving the tribal system, the act could not apply to that Province.²

In the following session the bills dealing with the franchise, which in the meantime had been discussed in a Select Committee, came up again in an altered form. The original intention had been to remove the Cape Bantu from the register. The new proposal gradually transferred them to a communal register and gave them the right to return three members of the House of Assembly and two Senators, while the Bantu of the other provinces were to choose two Senators and ten years later two more. The chances of the bill passing the joint sitting of both Houses of Parliament by the two-thirds majority required by the

¹ The Governor-General-in-Council became Supreme Chief in Natal, the Transvaal and Orange Free State under sect. 147 of the Act of Union.

² Acts 38 of 1927, 9 of 1929. Proclamation No. 252 of 1928. Rogers, pp. 2, 20.

Act of Union were meagre.¹ The strength of the opposition had been disclosed during the passage of the colour-bar bill, which had been rejected by the Senate in 1925, and carried by a majority of only sixteen in the joint sitting by which a disagreement between the two houses was resolved.² The Representation of Natives bill was carried by a majority of only six.³ It was therefore defeated; and soon afterwards the Prime Minister announced that the issue in the general election due in 1929 would be 'the preservation of the white race'.

The franchise issue now overrode all others, for, it was argued, until the whites were secured against any risk of the political domination of the blacks any solution of the colour problem was impossible. The same assertion, it will be recalled, justified the disfranchisement of the Negroes in the Southern States. In South Africa it provided an admirable election slogan for consolidating the Nationalist-Labour Pact. Even in the Western Province of the Cape the influx of Bantu and the cry of the poor whites had awakened the colour consciousness of voters hitherto faithful to the Cape tradition.⁴ The opposition South African Party, on the other hand, were divided on the question. A large section drawn from the neighbourhood of Capetown were rigid defenders of equal rights for all civilized men. In the Eastern Province too, where the Native vote was strongest, members of the party were faithful supporters of it. But elsewhere many believed that only by a communal franchise would it be possible to secure any representation for the Natives in the North, and that the Cape Bantu would be wise to sacrifice their rights to this end. Others while willing to agree to the retention of the Cape franchise opposed its extension elsewhere. These three schools of thought could find unity only by advocating a national convention on the whole problem of the relations between black and white. But how could so cold and uncontentious a suggestion

¹ See above, p. 269. ² Under section 63 of the Act of Union.

³ A majority of 52 was required.

⁴ Macmillan, *Complex South Africa*, p. 24.

prevail against the cry of 'a White South Africa'? The result was a clear majority for the 'Pact' of twenty in the House of Assembly, and the assurance of the requisite two-thirds majority in any joint sitting of both Houses.¹

General Hertzog was now in a position to carry what legislation he pleased. But he did not take advantage of it, and referred his Native bills to a joint Committee of both houses which deliberated on them for four years. In the meantime, by means not unlike the evasions of the fifteenth amendment of the American constitution, he was able to alter the relative strengths of the white and Coloured votes, and so still further to diminish the influence of the latter without committing any breach of its constitutional entrenchments. Thus in 1930 all white, but no Coloured and certainly no Bantu adult women were enfranchised—a stroke doubling the white vote throughout the Union. Then in 1931 the Cape and Natal property and educational qualifications were abolished for whites but left intact for the Coloured and the Bantu. The argument for this one-sided treatment of the problem was the same as for separatism. Was it reasonable, for example, that the property qualification for the franchise in Cape Colony should have had to be increased for whites in 1892 for no other reason than to exclude 'blanket Kaffirs'. Why should white manhood suffrage be denied in the Cape Province, when it was in force in the Transvaal and the Orange Free State, because the Bantu were not yet ready for black manhood suffrage? Why should the franchise be withheld from white women because of the black women? So long as the presence of the Natives was allowed to be an impediment to the just aspirations of the whites, the prejudice against them would subsist and would react to their detriment. There is force in these contentions. Modern white democracy is not the same as the democracy of 1853 or 1892, and it is not easy to attune Bantu political progress to it.

When the Native bills emerged from the joint Select

¹ The difficulty of the Senate having a South African Party majority had been overcome by the Senate Act No. 55 of 1926.

Committee a new government was in office. The Nationalist-Labour Pact had been replaced by a coalition leading to a fusion of the Nationalist and South African parties. The new alinement was made possible through the imperial relations of the Union having been defined by legislation to the satisfaction of Afrikander sentiment. The Union was now sovereign and independent while still a Dominion of the British Empire. One of the terms on which the parties united secured freedom of opinion for all on the Native problem, and ministers and members, although politically unified, continued to disagree on the subject as before. The bills also were now in a different form, having been reduced to two.¹ The Natives Parliamentary Representation Bill left the Cape Coloured franchise untouched. Nor did it disturb the rights of existing Bantu voters, but it forbade any more being registered. The Bantu vote would therefore gradually fade away. In its place the Natives of the whole Union, in four large constituencies, would choose four European Senators² and twelve members of a Native Representative Council with only advisory powers and with no financial responsibilities. The method of election would be by colleges composed of Native members of each local council, urban advisory board and Reserve board of management, and local chiefs, acting as voting units and having a card vote for the number of taxpayers or exempted taxpayers in their several districts. The United Transkeian Territories General Council, which had been established in 1930, was the electoral college for the Transkei. This electoral machinery was open to the criticism that it would not give true expression to Native opinion. It was too indirect and too much under the control of the Government which supervised the choice of, or nominated the members of local councils,³ and which subsidized the chiefs and could dismiss them at will.⁴

¹ Excluding the Coloured Persons Rights Bill which was referred to a Commission.

² And two more in seven years time.

³ See above, p. 258.

⁴ Reports and Proceedings of the Joint Committees on Natives and

Were these proposals adequate compensation for the loss of the franchise in the Cape? The question did not alone concern the difficult problem of providing some organized outlet for Native opinion. It raised also sentimental issues of great importance. The Cape Native franchise, although exercised in 1933 by fewer than eleven thousand voters out of a total Bantu population for the Union of nearly six millions, was a symbol of equal rights for all civilized men. Like Liberia it was a token of potential citizenship for all. It secured the Cape Bantu their right to buy or lease land outside the reserves. To agree to its destruction was to surrender the last citadel of the South and to acknowledge the complete victory of the North. The vote had been earned by the Bantu of the Cape and had never been abused. On both points it differed from the Negro vote in the Southern states, which had been conferred indiscriminately on the freedmen and had resulted in the scandals of Reconstruction. All conferences of Natives to which the matter was referred, with the exception of one in Zululand, demanded the retention of the vote. Sooner than agree to its abolition they were willing to forgo representation in any form for fifty years. But these considerations carried no weight with the other side. They objected to Bantu voting with whites. It was a standing violation of separatism on the most important point of all—the control of the national government. They saw in it an inevitably widening breach of the 'fundamental law of racial contact' that white interests and instincts must dictate the terms and conditions of racial association. However insignificant the Bantu vote might at present be it was bound to increase with the spread of education and wealth, and would either dominate the white, or be reduced by tinkering, as in Cape Colony, or by such means as were employed in the Southern states. The question was settled by a compromise unsatisfactory to Native opinion. The Cape Bantu

Coloured Persons during the period 1930-4. Supplement No. 1; *Round Table*, No. 100, pp. 722-34; E. A. Walker, *The Cape Native Franchise*, 1936.

retain their franchise but on a communal roll, and return three European members to the House of Assembly and two to the Provincial Council. But the franchise in its new form no longer assures to them the right to acquire land outside the reserves, and the Cape now falls into line with the other three provinces in being subject to the 1913 Land Act. The compromise did not affect the proposals that the Union Natives should choose four Senators and twelve members of the Native Representative Council, and they were passed.

The solution, like the disfranchisement of the Negroes in the Southern states, was hailed as removing the chief stimulant of race prejudice. With the franchise issue out of the way, so General Hertzog argued, the parliament and the public would be able to handle Native affairs 'impartially and objectively'.¹ The other measure reported by the Joint Select Committee, the Native Trust and Land Act is to provide the means. It establishes a Native Trust to acquire land for exclusively Bantu occupation to the extent of fifteen and a half million acres outside the existing reserves, to expropriate European-owned land in this new Native territory and to advance the material, moral and social welfare of Natives living on land under the Trust's control. When it has secured all the land it can, about 37,500,000 acres will be reserved for the Bantu out of a total for the Union of about 302,000,000 acres, that is to say about 12 per cent.² The income of the Trust will be all revenues arising from its lands and, most important of all, grants from parliament. The franchise question having been settled at any rate for the present, there is promise of more generous expenditure on Native welfare than in the past. Its urgent necessity has been emphasized by at least two recent Commissions.

The Economic and Wage Commission in 1925 drew attention to the crowded state of the reserves and to the necessity of the inmates earning wages outside. In the

¹ Quoted in *Round Table*, No. 103, p. 540.

² Rogers, p. 171; *Round Table*, No. 102, p. 417.

Transkei alone sixty thousand men are at all times absent, and without their earnings the territory would be unable to support its population of one million.¹ This state of affairs accords in principle with the South African conception of separatism combined with work for Europeans. But the effects have not been happy, for the Natives who go out from the reserves to work, or who are in permanent contact with the whites in the towns or on the farms, can acquire neither security of tenure nor independence. Their position on this all-important point is the exact opposite of the Negroes of the United States. This aspect did not escape the notice of the Native Economic Commission 1930-2, which was appointed to report more particularly on the economic and social condition of Natives in the larger towns. 'In the interests of the efficiency of urban industries', the Commissioners pointed out, 'it is better to have a fixed urban Native population to the extent to which such population is necessary than the present casual drifting population.' 'State policy should, therefore, be directed to the object of giving more permanence, more stability, to the various classes of labour, and in reducing so far as possible its casual nature.' The Commission failed, however, to apply the same reasoning to Native labour on the farms. Its report coincided in date with the passing of the Native Service Contract Act which still further curtails the freedom of labour tenants and their families. It has increased the minimum period of service in a labour tenancy from three months to six. It enables Native guardians to bind their dependants without their consent to work anywhere in the Union until the age of eighteen. It has made a family collectively responsible for any breach of contract by any one of its members, and it has brought them within the penal sanctions of the Masters and Servants² law.

¹ *Economic and Wage Commission*, paras. 53-5.

² *Report of Native Economic Commission*, 1930-2. U.G. 22. 1932, paras. 500, 557; E. H. Brookes, *The Colour Problems of South Africa*, pp. 111-18; *Journal of the Royal African Society*, No. cxxv, Oct. 1932, pp. 375-83; Act 24 of 1932.

Natives living in these circumstances are obviously no better off than the Negro tenants still under the shadow of the plantation in the Southern states. The returns they get from their land and grazing rights are speculative and uncertain, varying from year to year according to the market but generally below the mean owing to the low standard of Native farming and the instability of tenure.¹ Nor are conditions in the Native reserves more favourable. According to the Native Economic Commission, their carrying capacity for both human beings and animals is definitely on the down grade and unless remedied will create in the Union an appalling problem of Native poverty. They are overpopulated and overstocked. The latter evil is partly attributable to the Bantu traditional attitude towards his cattle, but it is a cause of denudation that threatens to transform grazing land into desert. Yet the reserves and the areas set aside under the Native Trust and Land Act are the only foundations on which any independent Bantu progress can be built.

¹ *Economic and Wage Commission*, pp. 12-16; *Native Economic Commission*, Part I and pp. 187-204; Brookes, pp. 114-15.

INDEX

Accra 21, 31-3
 Admiralty 3
 Africa, *see* South Africa; West Africa
 African Institute 15, 25
 African Methodist Episcopal Church 168
 Afrikanders 199, 206, 271, 285
 Aggr, Joe 33
 Aggr, John 36, 37
 Akassa 41, 42
 Alguacils 112, 113
 Alleghanies 139
 Allen, Richard 168
 Amadou-Sekou 55, 56
 Amatola Mountains 210, 219-23, 225
 America ix-xv, 6, 9, 13, 21, 104, 177, 190, 209, 219, 227, 237, 250, 268, 269, 277-9
 Central ix
 North xiv, xv
 'Black Codes' 148
 Civil Rights Act, 1875 158
 Conflict between Northern and Southern states 138-46
 Economic conditions 152-6
 Emancipation, consequences of 147, 148, 151-8
 Franchise 149, 150
 Free negroes 159-76
 Negro emigration 177-80
 Northern states 140-4
 Southern states 138-45
 Reconstruction 147-52
 South ix, 177
 American Civil War xvi, 138-46
 American colonial policy x
 American Colonization Society 137, 141, 177, 178, 180, 181 and n., 183, 185
 American Firestone Plantation Company 190, 192, 193
 American Independence, War of 9, 179
 Anamabo 19, 21
 Anderson, Isaac 12
 Anglo-Boer War, *see* Boer War
 Annamese 100

Annual Register 4
 Antilles, *see* West Indies, French.
 Apollonia 31
 Asaba 40
 Ashanti Wars xv, xvi, 19, 20, 36, 39
 Ashantis xi, 19-24, 36, 260
 Ashmun, Jehudi 14 n., 180, 181, 185
 Association for Promoting the Discovery of the Interior Parts of Africa 3
 Baatje, Carolus 235
 Bagirmi 25
 Baikie, Dr. 40
 Bakel 53, 54
 Bakwenas 231, 240
 Bambouk 53 and n.
 Banana Islands 17 n.
 Bannerman, James 34
 Bantu xv, 209-11, 213, 217, 218, 222, 224, 231, 236, 237, 246, 250, 253-6, 260, 276-87, 289
 Baol 50, 54, 55 n.
 Baptist missions 115
 Barbados ix, xiv, 103-4 and n., 106, 111, 113, 114, 117, 128
 administration 118, 119, 123, 124
 trade 105, 118
 Barclay, Arthur 186 n., 187
 Barkly, Sir Henry 116, 120, 122
 Barnave 82, 83
 Barnes 33, 34
 Barolongs 235
 Bashee river 210, 215, 221, 229
 Bassa Cove 183 n.
 Bastille 80
 Basutoland 235, 249, 250, 265
 Basutos 231, 236, 249
 Bataungs 231, 232, 235
 Batavia 198
 Batavian Republic 201
 Bathurst, Lord 18, 21, 28, 107, 108
 Batluokas 231, 235
 Bechuanaland 265
 Bendu 18
 Benin, Bight of 38

INDEX

Bentham 6, 7, 16
 Benue river 40
 Berlin Act, 1885 xi, 29
 Berlin Conference 40
 Bevesout 11 n.
 Bexley 183 n.
 Bigelow 120
 Birney, J. G. 141
 Bissette, M. 90, 92
 Blackstone's *Commentaries* 183
 Blake, Sir Henry 131, 132
 Bloemfontein 234, 235
 Blood river 237
 Blue Ridge Mountains 139 and n.
 Blyth, Captain 256-7
 Boer Republics 249
 Boer War xvi, 265, 266, 271
 Boilat, Abbé 43, 49
 Bondou 53 and n., 54
 Boom river 28
 Boomplats 236
 Botha, Gen. 270
 Boukmann 84
 Bourbon 93 n.
 Bowditch, T. E. 19
 Brakna Moors 46
 Brass 42
 Brazil ix, 201
 Brévié, Gov.-Gen. 64, 65, 74
 British West Africa, *see under* West Africa
 Brosses, Charles de 3
 Brownlee, Charles 228 n., 230
 Brue, André 3
 Brussels Act xi, 29
 Buchanan, Thomas 183, 184
 Buenos Aires 16
 Buku 221
 Bumpe 18
 Bunce river 17 n.
 Bushmen xv
 Buxton, Thomas Fowell 25, 106
 Calderwood, Henry 220, 222, 225, 250, 252, 253
 Caldwell 183 n.
 Caledon, Lord 203
 Calhoun 144
 California 143, 149 n.
 Callender, John 3
 Canada 26
 Cape Coast Castle 19-22, 36, 38
 Cape Coast Castle (*cont.*)
 riot in 34
 Cape Coast Town 32-6
 Cape Colony, *see* Cape Province
 Cape François 86
 Cape of Good Hope, *see* South Africa
 Cape Palmas 182, 184, 192
 Cape Peninsula ix, xv
 Cape Province x, xv, xvi, 26, 209, 213, 229, 231, 249-86
 Administration 216-18, 221-30, 257, 258
 'Black Circuit' 204, 212
 Commission on Native Laws and Customs 257
 Early history 197-201
 Franchise 254-7
 Land disputes 205, 210-15, 219-30, 253 and n., 254
 Masters and Servants Ordinance 204, 273, 288
 Municipal Boards Ordinance 207
 Municipality of Capetown Ordinance 207
 Natives, classes of 250-2
 Native Succession Act 256
 Parliament 257
 Parliamentary Registration Act 255
 Punishments Act 232-4
 Somerset District 213
 Vagrancy Law 206
 Cape Verde Peninsula 44, 55
 Capetown 197, 202, 206, 207, 214, 222, 266, 280
 Carde, Gov.-Gen. 64, 74
 Carmarthen, Lord 5
 Carnarvon, Lord 260, 262, 263
 Carolina, North 139, 145, 146, 152, 155-7, 174 n.
 Constitutional Convention 177
 Carolina, South 138, 142, 144-6, 148, 152, 155-7
 Carrère, M. 51, 52
 Casamansa 61 n.
 Castlereagh, Lord 17
 Cathcart, Sir George 222, 224, 228
 Cayenne 93 n.
 Caylor 54, 55 and n., 56 and n.
 Dame of 54-6
 Ceylon x n.
 Cha 18
 Chaka, King 213, 231, 251

Chamber of Deputies, *see under* France
 Charles X 89
 Charleston, S. Carolina 160
 Chaumasson, Governor 49
 Chicago 160, 165, 272
 Ciskei 230
 Clarkson 14 n.
 Clay, Henry 178 n.
 Clermont-Tonnerre, Marquis de 46, 91
 Cleveland 165
 Cloete, Henry 212 n.
 Cochin-China 45 n., 100
 Cole, Sir Lowry 213, 217
 Colesberg 233, 235
 Colonial Conferences (Paris) 100, 101
 and n., 102
 Colonial Office 31, 133
 Columbine, Capt. 17
 Company of Merchants Trading in
 Africa 20
 Congo 179
 Connor, Henry 33
 Connecticut 149 n., 178
 Cook, Captain 3
 Cox, Major 215 note
 Cradock, Sir John 205, 212
 Cuba 108

 Daendels, Gen. 20 note
 Dakar 54, 56, 57, 60
 Damga 50, 53 and n., 54
 Danyville 154, 155
 David, Peter 235
 Declaration of Independence 149, 185
 Declaration of Rights 81
 Delaware 142 note
 de Mist, Commissary-General 212
 Denkera 22
 Derby, Lord 125
 Detroit 165
 Diagne, M. Blaise 60
 Dimar 50, 53 and n., 56
 Dingaan 237
 Dixcove 21
 Djalof 55 n.
 Dodowa 22
 Dogana 45
 Dougherty County, Georgia 166
 Douglas, Frederick 168
 Drake 3
 Dred Scott case 145, 146
 Du Bois, Burghardt 163, 166

 Dupuis, Joseph 20
 Duponts, Chemin 96
 D'Urban, Sir Benjamin 214 and n.,
 215
 Dutch
 In Cape 197, 198, 231, 239, 268-70
 In East Indies 44, 45 and n.
 In West Africa 20 and n., 21 and n.,
 22, 31, 39
 Dutch East India Company 197, 198
 Duval, Jules 96

 East India Company 105
 East Indian National Congress 130
 East Indies 43, 44, 105
 Edina 183 n.
 Education of Natives 15, 17, 31, 32,
 51, 65, 66, 75, 94
 Elmina 21
 Emancipation
 causes of changed attitude 4-8, 90
 societies sponsoring 15, 25, 79 and
 n., 80, 106, 115
 Evangelicalism 3, 5, 6, 7, 15, 115, 118,
 138, 178

 Fabien, M. 90, 92
 Faidherbe, Gen. xii, xiii, 39, 52-4, 63,
 66
 Faku 238
 Falémé river 53
 Falmouth 120
 Fantis xi, 19, 20, 22, 37-9
 Felton, Dr. 154
 Fernando Po, Island of 192, 193
 Finance Corporation of America 192
 Fingoes 213, 220, 229, 230, 250-4, 259
 Fish river xv, 205 n., 210-13, 230, 237
 Florida 174 n.
 Foreign Jurisdiction Act, 1843 26, 28
 Fort Beaufort 223, 254, 255
 Foulahs 15, 29
 Fouta 50, 53 and n., 56
 France 29, 43 n., 49, 70, 102, 190, 199,
 201
 Chamber of Deputies 46, 51, 57, 60,
 98
 Constituent Assembly 43, 85, 86
 July Monarchy 89
 Legislative Assembly 86
 Marine and Colonies, Ministry of
 88, 91

France (*cont.*)
 Minister's Advisory Council 95
 National Assembly 6, 51, 79-84, 87,
 91, 95, 113
 Colonial Committee of 83, 84
 National Convention 6
 Parliament 89, 93
 Native representation in x, xii,
 xiv, 51, 52, 57, 60, 95, 98
 Restoration Government 44, 92, 93
 Second Empire 95, 101
 Senate 95, 98
 Franco-Prussian War 56
 Freetown 17, 27 n., 29, 68 and n.,
 184
 French colonial principles xiii, xiv, 50,
 58-66, 72-5, 87-90, 102
 French Revolution 6, 50, 79, 87, 88,
 90, 95, 118
 Revolutionary Assembly 93
 French West Africa, *see under* West
 Africa
 French West Indies, *see under* West
 Indies
 Frere, Sir Bartle 257, 259, 263
 Froude 262
 Gaikas 210, 212-15, 219-22, 225, 226,
 228, 230
 Galeka 210, 229, 230
 Gallieni, Genl. 40, 56
 Gambia 3, 21, 25, 179
 Garrison, W. L. 141, 178
 Garvin 11 n.
 Genadendal 202
 General Education Bureau 170
 Georgia 138, 144, 146, 152, 154, 155,
 157
 Geridon, Governor 47
 Germany 190, 199
 Glen Grey Act 258
 Glenelg, Lord 115, 118, 216, 217
 Gold Coast xi, xvi, 186, 243, 245
 Aborigines Rights Protection
 Society 71, 72
 Administration 19-26, 30-9, 67-75
 Bond of 1844 26, 30, 36
 Danish forts 31, 38
 Native Authority Ordinance 74
 Native Jurisdiction Ordinance 70
 Poll-tax 31-5
 Population 30
 Representative government 30-5,
 37, 38, 68, 69, 72
 Tribal wars 19, 20, 22, 33, 36, 37,
 39.
 Goldie, Sir George Taubman 40
 Gore xii, 44 n., 45, 51, 53, 57, 58, 98
 Goulburn, Henry 111
 Graaff Reinet 200, 201
 Grand Bassa 182, 183 and n.
 'Granger' movement 152
 Grant, Gen. 150
 Great Trek xvi, 206, 217, 231-42
 Descendants of trekkers 268
 Relations between trekkers and
 government 231-6
 In Natal 237-40
 In Transvaal 240-2
 Greenback party 152
 Grégoire, Abbé 6, 82
 Grey, Earl 31, 207, 218-20, 242, 243,
 264
 Grey, Sir Charles 121
 Grey, Sir George 223-30, 246, 249
 Griqualand West, 263
 Griquas 205, 231, 232, 234-6
 Guadeloupe ix, xiv, 58, 80, 92, 93 n.,
 95, 98
 Administration 88, 89, 100-2
 Agriculture 97, 99, 100
 Free coloured in 90, 91
 Opposition to emancipation 81-3
 Guinea 20 n., 39
 Gulf of Guinea 25
 Gunukwebes 211, 213, 217
 Gurney, J. J. 116
 H.M.S. *Pomona* 9 note
 Halifax, Viscount, *see* Wood, Mr.
 E. F. L.
 Hamilton, D. M. 18
 Harvard University 182
 Hastings 17 n.
 Hayti 186
 Hearn, Lafcadio 102 n.
 Hennessey, Sir John Pope 123
 Hertzog, Genl. 270, 271, 275, 276,
 279, 281, 284, 287
 Hintsa 213-15, 218
 Hlubis 259
 Hobbes 5
 Holland 199
 Holle, M. 51, 52

Hoover, Mr. 174
 Hopkins, Samuel 178
 Horneman 3
 Hôtel Massiac 80, 82
 Hottentot Wars 197, 198
 Hottentots xv, 197, 200-8, 211, 214,
 215, 250
 Houghton 3
 Hughes 33, 34

 Imhof, Baron van 199
 India 58, 80, 97
 Indians 227
 Indo-China xiv
 Isamankow 20

 Jamaica ix, xiv, 82, 103, 104 n., 106n.,
 108, 111, 113, 114
 Administration 116-28, 132, 133
 Economic conditions 105, 106, 117,
 130-2
 Franchise 120-8
 Enlargement Law 127
 Jamaican Act, 1840 116
 James Town 32, 33, 35
 Janssens, Governor 212
 Java x n., 44, 45
 Jeans Fund 170
 Jefferson 137 n., 139, 177
 Johannesburg 265, 266, 272, 273
 Johnson 175
 Johnson, Andrew 147
 Johnson, C. S. 166
 John F. Slater Board 170
 Jong river 28

 Kaffir wars 209, 212, 218, 222, 228,
 254
 Kaffirs 215 and n., 219, 222, 229, 239,
 246, 250-3, 262, 284, *see also*
 Xosas
 'Red Kaffirs', *see* Xosas
 Kaffraria 224, 225
 British 220-4, 226, 227, 250
 Kagboro 18
 Kansas 145
 Kat River 214, 220
 Settlement 205 n.
 Kedje river 31
 Kei river 210, 213-15, 217-21, 223-6,
 229, 230, 235, 249, 250, 256

 Keiskamma river 213, 217, 219, 220,
 235, 237, 252
 Kentucky 141, 174 n.
 Khayes 53
 Kimberley 265, 271
 Kimberley, Lord 28
 King, President 191
 Kingston, Jamaica 126
 Kingwilliamstown 251, 252, 265
 Kofi Amissah 33
 Kok, Adam 205, 231-4, 236
 Komenda 19
 Kongo 40
 Korannas 235
 Koya 18
 Kreli 218, 219, 221, 223, 225, 229,
 230, 251
 Krugerism 271
 Krynow 233
 Kumassi 19, 20

 Lagos 38, 72
 Laird, M'Gregor 40
 Langalibalele 260, 267
 Lat-Dior 55, 56
 League of Nations 192, 193
 Ledyard 3
 Leeward Islands 104 n.
 Leroy-Beaulieu 96
 Liberia ix, xiv, xv, 13, 14, 29, 286
 Administration by Colonization
 Society 180-4
 independent 185-7
 Constitution 182, 183, 185, 187
 Economic difficulties 187-91
 International Commission, 192, 193
 Negro immigration 177-80
 Problem of international status 184,
 190, 192-4
 Liberian Development Company 189
 Limpopo river 231, 238, 240
 Lincoln, Abraham 147, 148
 Lishuane 235
 Liverpool, Lord 111
 Lokoja 40
 London 6, 10, 12, 25, 29, 37, 121, 189
 Convention 264
 Missionary Society 202
 Los Islands 17 n.
 Louis XVIII 88, 89
 Louis-Philippe 91
 Louverture, Toussaint 86

Lucas 3
 Lydenburg Republic 261
 Macadou, Damel 55
 M'Carthy, Charles 17, 18, 20 and n.,
 21 n., 23, 27
 Treaty of 17, 18
 Macaulay, Zachary 5, 10-12
 McDuffy 154
 Mackau, Captain de 46
 Mackinnon, Colonel 221
 Maclean, Capt. George 23-6, 30, 245
 Maclean, Col. 227, 228
 Macomo 214, 223, 225, 228, 254
 Macon County, Alabama 166
 Madden, Dr. 23, 24, 37
 Madiodio 55
 Mahomedanism 50-3, 60
 Mahone, Gen. 153, 154, 156
 Maine 142
 Maitland, Sir Peregrine 219, 220, 222,
 233-5
 Makwana 232
 Mandingo 15
 Mankesim 37
 Mansfield, Lord 275
 Mantatis 231
 Maroons 12, 13
 Marshall, 183 n.
 Martinique ix, xiv, 58, 88, 92, 93 n.,
 95, 97, 98
 Administration 100, 102 and n.
 Agriculture 97, 100
 General Council 129
 Opposition to emancipation 80, 81,
 89-91
 Maryland 144, 178
 Society, 182
 Mason and Dixon line 142 and n., 171
 Massachusetts Declaration of Rights
 137, 140
 Matabele 231, 240
 Mauritius 80, 84
 Maxwell, Gen. 44
 Maynier, H. C. D. 200-2, 212
 Mechlin, John 180, 182
 Melbourne, Lord 119
 Mendes 27
 Merivale 35, 243-5
 Mesley, de 46
 Metcalfe, Sir Charles 120
 Mexico 7, 143, 201, 250
 Millsburg 183 n.
 Milner, Lord 266
 Miquelon, Island of 88
 Mississippi 142, 149, 157
 Society 182
 Missouri 142
 Mnatatisi, Queen 231
 Moltsane 235
 Monroe, Governor 177
 Monrovia 180, 182, 183 and n., 190,
 192
 Montesquieu 7
 Montgomery 167
 Montserrat 183, 186
 Moore, Francis 3
 Morant Bay 122
 Moravians 202
 Moroko 235
 Mosilikatse 231, 240
 Moshesh 231-3, 235, 249
 Mpanda 237
 Muslims, *see under* Mahomedanism
 Napier, Sir George 239
 Napoleon 43, 88, 97
 Natal 31, 33, 213, 224, 236, 249-51,
 263, 264, 267, 269, 270, 277, 282,
 284
 Administration 245, 246, 260, 261
 Franchise 246-8, 259
 Shepstone's policy 242-8
 Trekkers 237-40
 National African Company, *see* Royal
 Niger Company
 National Association for the Advance-
 ment of Coloured People 163, 171,
 194 note
 National Negro Business League 168
 Ndhlambi 210, 212-15, 221, 223 n.,
 228, 230
 N'Diamour 55, 57
 Nebraska 145
 Negro Baptist Church 168
 Netherlands 201
 New Georgia 183 n.
 New Jersey 178
 New Mexico 143, 144
 New York 149 n., 152, 165
 New Zealand 244
 Newcastle, Duke of 244 n., 247
 Newport, Rhode Island 178
 Niger Expedition xi, 24, 25, 40

Niger river 39, 40, 179
 Nigeria 39-42, 72, 73
 Nigritia 14
 Nongoba Bullom 18
 Norman, Sir Henry 126
 Nova Scotia 11, 13 and note
 Emigration from, to Sierra Leone 9,
 12, 13
 Nun river 41
 Ogé 82, 83, 86, 91
 Ohio river 142 n., 177
 Orange Free State 213, 249, 263, 266,
 269-71, 282, 284
 Orange river 231, 235, 236, 238, 240,
 243
 Oregon 143
 Oualo 50, 53, 54, 58, 63
 Brac of 45-8, 54
 Owen, C. M. 243, 244
 Palo 210
 Paraguay 202
 Paris x, xiii, xiv, 6, 46, 49, 51, 52, 60,
 70, 79-81, 83, 85, 87, 88, 90, 95, 98,
 100, 101, 113
 Park, Mungo 3
 Parliament, British 5, 16
 Parliament, Cape, *see under* Cape
 Province
 Parliament, French, *see under* France
 Parliament, South African, *see under*
 South Africa
 Parliamentary Select Committees 24,
 25, 37, 38, 217
 Patterson, W. 200
 Pennsylvania 142 n., 149 n.
 Society 182
 Peoples' Party (America) 152, 154,
 156, 157
 Philadelphia 165
 Philip, Dr. John 204, 214
 Philippines 7
 Piedmont 139, 140 and n., 154
 Pietermaritzburg 237
 Pine, Sir Benjamin 31-4, 38, 67-9,
 243, 244
 Pinney, Rev. J. B. 182
 Pitt 5
 Pittsburgh 165
 Platberg 235
 Pointe-à-Pitre 97
 Pondicherry 43 n.
 Pondo 238
 Ponty, M. 63, 74
 Port Natal 238
 Portal, Baron de 44, 46
 Port-au-Prince 85
 Port of Spain 112, 113 n.
 Portugal 51
 Portuguese ix
 Portuguese East Africa 265
 Potchefstroom 240, 261
 Potgieter, Hendrik 232, 236, 240
 Pretoria 261, 263
 Convention 263, 264
 Pretorius, Andries 237
 Quakers 6
 Queenstown 251, 255
 Quitta 31
 Raimond, Julien 82, 83, 92
 Raad 238, 272
 Rarabe 210, 223 n.
 'Readjuster' controversy 153
 Retief, Piet 232, 236, 237, 240
 Réunion 58, 88, 95
 Rewbell, 84
 Rio del Rey 4x
 Robespierre 85
 Robinson, James 12
 Roger, Jacque François 47
 Roman Catholic clergy, French 6
 Roosevelt, President 173 n.
 Rosenwald, Julius 170
 Rousseau 4, 138
 Royal African Corps 13
 Royal Niger Company 40-2
 Royal Society 3
 Rufisque 57
 Russell, Ld. John 23, 116-18, 120,
 227
 Saigon 100
 St. Anne's Bay 120 n.
 St. George's Bay 9 n.
 St. Louis xii, 43, 45, 47-58, 91, 98
 St. Pierre, Island of 88
 Salmon, C. S. 38, 100
 Saloum 54, 55 n., 61 n.
 Saloum river 54
 Sandili 219-21, 223, 225, 228-30

San Domingo 96, 110, 113, 177
 Opposition to emancipation 80, 83-6
 Slave revolt 6, 103, 104

San Salvador 40

Sarraut, Albert 102 n.

Scarcies, Great and Little, rivers 19

Schmaltz, Julian 44-6

Scott, Lt.-Governor 247

Senegal xii, xiv, 42, 67, 88, 89
 Administration 45-7, 50-7, 91, 92
 Language 51, 52, 60, 61
 Trade 43-5, 47-9, 52

Senegal river 3, 39, 40, 43, 45, 46, 52-6, 179

Senegambia 44, 51

Sharp, Granville 8, 9, 12, 178

Shaw, William 217

Shepstone, Theophilus 242-4 and n., 245-7, 259, 260, 262-4, 282

Sherboro 18

Sierra Leone 14-19, 27-30
 Administration by Sierra Leone Company 9-13
 by British Government 27-30, 67-70
 Economic conditions 10, 11
 Ordinance 67
 Origin 8
 Trade 9, 27
 Tribal Administration Ordinance 70

Sierra Leone Company 9-13, 16, 177, 181

Sikonyela 231, 232, 235

Sime 54, 55 n., 61 n.

Since 192

Siratik 50

Slachter's Nek 205

Slave Coast 186

Smith 33, 34

Smith, Alfred E. 173

Smith, Sir Harry 220-2, 235, 236

Smuts, Gen. 277, 278
 Government 276

Société Coloniale Philanthropique 44

Société des Amis des Noirs 79 and n., 80

Société des Gens de Couleur Libres 82

Society for the Extinction of the Slave
 Trade 25

Society for the Mitigation and Gradual
 Abolition of Slavery 25, 106, 115

Society for the Propagation of the
 Gospel 50

Somerset, Lord Charles 212, 213 note

South Africa ix, x, xv, xvi, 209, 249-89

Act of Union 269, 283

Causes of conflict between British
 Government and settlers 204-8

Economic and Wage Commission 287-9

Economic development 265, 266

Economic position of natives 271-80, 287-9

Franchise 281-7

Industrial Federation 274

Labour Commission 266

Land Act 279, 287, 289

National Convention 256, 267, 269, 270

Native Administration Act 276, 281

Native Service Contract Act 288

Parliament 271, 274, 276, 282

Representation of Natives Bill 283

Rhodes Government 258

Wage Act 279
see also Cape Province

Southern Farmers' Alliance 152

Spain 7, 51

Spanish possessions ix, xiv, 107, 108, 110-12, 177, 192

Stanley, Lord 207, 239, 264

Stockenstrom, Sir A. 218

Stone, A. H. 161, 175

Succoom river 31

Taibosch, Bert 235

Tammany Hall 174

Taubman, George Goldie, *see* Goldie

Tembuland 252

Tembus 213, 221, 229, 230, 251

Temnes 27

Tennessee 149, 174 n., 178

Texas 143, 174 n.

Thaba Nchu 235

Theal 229

Thompson 33, 34

Thompson, Peronnet 15-17, 22, 25
 Treaty of 16, 17

Thurlow 5

Tidewater 139, 140 and n., 141, 152

Tillman, Benjamin 155

Timdel 18

Tini 251
 Tlascaltecans 250
 Tom, King 12
 Tongaland 265
 Toro 50, 53 and n., 55, 56
 Touwfontein 233
 Toyise 223 and n.
 Trans-Alleghany 139, 140 and n., 141
 Transkei 223, 252, 257, 258, 273, 276, 285, 288
 Representation Bill 257
 Transvaal 213, 236, 249, 259, 265, 269-74, 282, 284
 Administration 261-4
 Franchise 266, 267
 Location Committee 263
 Trekkern 240-2
 Volksraad 240, 261, 262
 Western 231
 Trarza Moors 46-8, 50
 Trinidad ix, 113, 119
 Administration 128, 129 and n., 130
 Agricultural Society 130
 Cédula of population 107, 110, 111 n.
 Chamber of Commerce 130
 Economic conditions 129-31
 Free Coloured 110, 111
 Order-in-Council 108-10, 115
 Slave conditions 106-9
 Spanish xiv, 107, 108, 110-12
 Working Men's Council 130
 Tugela river 237
 Turner, Major-Gen. 18, 20-2, 25
 Treaty of 18, 28
 Tuskegee College 162, 166, 167
 Tutu Kwamina 19
 Tyali 214
 Umhala 223 and n.
 Umfulosi 237
 Umtamvuna river 238
 Umzimkulu river 242, 243, 247
 Umzimnyubu river 237, 238, 242, 243
 Underhill, E. B. 129
 Union Coloniale Française 102
 Union of S. Africa, *see under* South Africa
 United States of America, *see under* America

Uppington, Sir T. 257
 Urban League 171
 Utah 144
 Utilitarianism x, 6-8, 15
 Vaal river 231, 232, 235, 236, 240
 Van Riebeeck 197
 Vanderkemp, Dr. 202, 203
 Vereeniging, Treaty of 266
 Vet river 231, 232
 Victoria East 244
 Virginia, 139 n., 141, 142, 145, 146, 152, 153, 155-7, 177, 197
 Assembly 178
 Constitutional Conventions 139, 144
 Reconstruction Convention 149
 West 174 n.
 Vollenhoven, Gov.-Gen. van 63
 Volta river 31
 Washington, Booker 161-3, 168, 172
 Wassaw 22
 Waterboer 205
 Waterkloof 223, 254
 Waterloo 17 n.
 Watson, Tom 154
 Weatherford 175
 Wesleyans 217, 235
 West Africa ix, xi-xiv, 197
 British 8-43, 67-90
 Commission of Inquiry 14, 15
 Principles of policy 14-16, 67-75
 French 43-66, 72-5, 91, 92
 Administration xii, xiii, 62-5, 72, 74, 75
 Language 65, 66
 Principles of policy 50, 58-66, 72-5
see also under Gold Coast, Nigeria, Senegal, Sierra Leone
 West India Regiment 17
 West Indies ix, xi, xiii, xiv, 6, 30, 177
 British 103-33
 administration 115-33
 Crown Land Settlement scheme 131
 emancipation movement 106
 slave conditions in 103, 104, 106-10, 114
 trade 104, 105, 114

| | |
|---|--|
| <p>West Indies: British (<i>cont.</i>) <i>see also</i> Barbados, Jamaica, Trinidad</p> <p>French xiii, xiv, 79-86, 87-102 administration 87-93, 95, 101 chambers of agriculture 89 Code Noir 81 committees of agriculture 89 franchise 87-94 opposition to emancipation 79-83, 94 trade 87, 89, 96, 97, 99-102 <i>see also</i> Guadeloupe, Martinique, San Domingo</p> <p>Wilberforce 5, 16, 17 n.</p> <p>Wilmington 156</p> <p>Wilmot proviso 143, 144</p> <p>Winburg 232, 233, 236</p> | <p>Windward Islands 123</p> <p>Witwatersrand 265</p> <p>Wodehouse, Sir Philip 229</p> <p>Wolseley, Sir Garnet 260</p> <p>Wood, Mr. E. F. L. 129, 133</p> <p>Woodward, Sir R. 112, 113</p> <p>Xosas 205 n., 210-14, 219-22, 225-30, 242, 246, 250-3, <i>see also</i> Kaffirs</p> <p>Zand River Convention 264</p> <p>Zizer, Ansel 12</p> <p>Zululand 213, 237, 249, 286</p> <p>Zulus 213, 231, 237, 239, 246, 259, 261</p> <p>Zuurveld 212</p> <p>Zwartkopjes 233</p> |
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SOUTH EAST AFRICA

